

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Minnesota
Department of Transportation
Transportation Building
St. Paul, Minnesota 55155

Office of Commissioner

(612) 296-3000

March 25, 1981

Honorable Warren Spannaus
Attorney General
120 State Capitol
St. Paul, Minnesota 55155

Dear Mr. Spannus:

Attached for your review, as to form and legality, are an original and three copies of the Adopted Rules for Operating Standards for Special Transportation Service of the Minnesota Department of Transportation. The rules are submitted pursuant to Minn. Stat. § 15.0412, subd. 4e and 1 MCAR, Sec. 1.202.

We have enclosed the complete hearing record, the transcript and the order of the Chief Hearing Examiner stating that he finds no substantial change between the final proposed rules and the proposed rules which were published in the State Register pursuant to Minn. Stat. § 15.0412, subd. 4e.

On this date, we have mailed a notice to all persons who requested to be informed that the hearing record had been submitted to the Attorney General.

We have sent a copy of the adopted rules to the Office of the Revisor of Statutes for review as to form.

Sincerely,

Richard P. Braun
Commissioner

Attachments

March 24, 1981

Honorable Warren Spannaus
Attorney General
120 State Capitol
St. Paul, Minnesota 55155

Dear Mr. Spannaus:

Attached for your review, as to form and legality, are an original and three copies of the Adopted Rules for Operating Standards for Special Transportation Service of the Minnesota Department of Transportation. The rules are submitted pursuant to Minn. Stat. § 15.0412, subd. 4e and 1 MCAR, Sec. 1.202.

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Sincerely,

Richard P. Braun
Commissioner

Attachments

RECEIVED
MAR 25 1981
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

Our File No. 685

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 3/25
DATE FOR REVIEW 4/6
DATE DUE 4/14

Adopted w/a hearing X
Adopted w/o a hearing _____
Temporary rule _____

Approved 4/14 Disapproved _____ Returned to Agency 4/15

Resubmitted _____ Due _____
Approved _____ Disapproved _____ Returned to Agency _____

Date filed w/Secretary of State _____

✓ Comments directed to AG.

✓ Rule as Adopted

✓ Rule as Proposed

✓ Order Adopting 3.25.81

✓ Notice of Intent to Solicit Outside Opinion

✓ Order for rulemaking
12.2.80 Date of Hearing

N/A Certificate of Board's Authorizing Resolution

✓ Notice of rulemaking
✓ Sufficiency

✓ Affidavit of Mailing Notice of rulemaking
10.24.80 At least 30 days prior to hearing/~~adoption~~

✓ Mailing list Certificate

✓ Publication in State Register
10.20.80 At least 30/20 days prior to hearing/~~adoption~~

✓ Hearing Examiner's Report

___ Chief Hearing Examiner's Report(s)
_____ Approving H.E.'s Report not submitted.
✓ Approving agency action

✓ Agency's Findings of Fact

N/A LCRAR Report or agency Affidavit

N/A Certificate of Board's Resolution Adopting Rules

✓ Order Approving Incorporation by Reference

✓ Statement of Need and Reasonableness

N/A Petition for Adoption of a Rule

✓ Record (includes transcript or tape, exhibits, comments received by agency, requests for a hearing, and other relevant materials)

✓ Certificate of Compliance w/Rulemaking Procedures

✓ Affidavit of Mailing Notice of Submission to Attorney General

? Notice of Submission to the Attorney General contains error in number of days rule will be held by AG.

ADMIN 1050 (REV. 1-73)
SF-00005-01

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : RICHARD P. BRAUN
Commissioner, Department of Transportation

DATE: 4/14/81

ATTN : GILBERT S. BUFFINGTON
Special Assistant Attorney General

FROM : JERRY S. ANDERSON
Special Assistant
Attorney General

PHONE: 6-4692

SUBJECT: In the Matter of the Proposed Adoption of Rules of the Department of Transportation Relating to Operating Standards for Special Transportation Service.

Enclosed herewith are the rules you have submitted for approval. These rules have been approved by this office and filed with the Secretary of State. Please note that they have not been filed with the State Register; this must be done promptly by your agency.

Upon receipt and before transmittal to your agency, however, it is important that you recheck these rules as to:

1. Affixation of stamps of the Attorney General and Secretary of State to the last page of the rules;

2. Coverage by these stamps of all rules submitted; and

3. Inclusion of all pages to the rules in the approved set.

If you have any questions in this regard, please contact me.

JSA/gy

Enc.

cc: Duane Harves
Susan Robertson

STATE OF MINNESOTA

DEPARTMENT OF TRANSPORTATION

In the Matter of the Proposed Adoption of Rules of the Department of Transportation Relating to Operating Standards for Special Transportation Service.	ORDER ADOPTING RULES

- -

The above-entitled matter came on for hearing before Hearing Examiner George A. Beck on the 2nd day of December, 1980, at 10:00 A.M., in the State Office Building, Room 81, St. Paul, Minnesota after proper notice required by Minnesota Statutes section 15.0412 was served upon all persons, associations, and other interested groups registered with the Department of Transportation for that purpose.

After affording interested persons an opportunity to present written and oral data, statements, and arguments, hearing all of the testimony, considering all of the evidence adduced and upon the records, files, and proceedings herein and applicable statutory standards or criteria, and confirming the need for and reasonableness of the above-captioned rules,

NOW, THEREFORE, IT IS ORDERED that these rules identified as Rules of the Department of Transportation Relating to Operating Standards for Special Transportation Service are adopted this 25th day of March, 1981, pursuant to authority vested in me by Minnesota Statutes section 174.30, subds. 2, 4 and 5.

STATE OF MINNESOTA

DEPARTMENT OF TRANSPORTATION

Richard P. Braun
Commissioner

STATE OF MINNESOTA

DEPARTMENT OF TRANSPORTATION

In the Matter of the Proposed Adoption of Rules of the Department of Transportation Relating to Operating Standards for Special Transportation Service.	SUPPLEMENTARY ORDER ADOPTING RULES

- -

The above-entitled matter came on for hearing before Hearing Examiner George A. Beck on the 2nd day of December, 1980, at 10:00 A.M., in the State Office Building, Room 81, St. Paul, Minnesota after proper notice required by Minnesota Statutes section 15.0412 was served upon all persons, associations, and other interested groups registered with the Department of Transportation for that purpose.

After affording interested persons an opportunity to present written and oral data, statements, and arguments, hearing all of the testimony, considering all of the evidence adduced and upon the records, files, and proceedings herein and applicable statutory standards or criteria, and confirming the need for and reasonableness of the above-captioned rules, an order adopting the rules identified as Rules of the Department of Transportation Relating to Operating Standards for Special Transportation Service was signed March 25, 1981.

Subsequent to the adoption of the rules by the commissioner, certain non-substantive corrections were determined to be needed to correct typographical and stylistic errors.

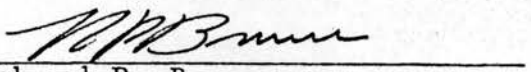
These changes are made to the following sections: 14 MCAR §§ 1.7002; 1.7003 M., Q. and S.; 1.7004 B.; 1.7005 A.; 1.7005 B. 1. e. (3); 1.7007 D. 1.; 1.7008 D.; 1.7009 A. 2.; 1.7009 A.; 1.7009 B. 1. b. and (1) and (2); 1.7009 B. 1. f.; 1.7009 B. 5.; 1.7009 C.; 1.7010 A. 1. and 3.; 1.7010 B.; 1.7011 A. 2.; 1.7012 D.; and 1.7013 A. 2.

Two additional non-substantive changes were determined to be necessary. One change at 14 MCAR §§ 1.7008 A. clarifies language which was found to be potentially ambiguous. The other change at 14 MCAR §§ 1.7008 C. is needed to express the true intent of the rule.

NOW, THEREFORE, IT IS ORDERED that these rules identified as Rules of the Department of Transportation Relating to Operating Standards for Special Transportation Service and the changes listed above are adopted this 13th day of April, 1981, pursuant to authority vested in my by Minnesota Statutes section 174.30, subds. 2, 4 and 5.

STATE OF MINNESOTA

DEPARTMENT OF TRANSPORTATION



Richard P. Braun
Commissioner

Department of Transportation

Division of Public Transportation

Operating Standards for Special Transportation Service

Rules as Proposed (all new material)

14 MCAR § 1.7001 Scope.

A. These standards apply to special transportation service provided on a regular basis by a public or private person that is designed exclusively or primarily to serve individuals who are elderly, handicapped, disabled or economically disadvantaged and who are unable to use regular means of transportation.

B. These standards do not apply to transportation provided by:

1. A common carrier operating on fixed routes and schedules;

2. A taxi;

3. A volunteer driver using a private automobile which belongs to the volunteer;

4. A school bus as defined in Minn. Stat. § 169.01, subd. 6; or

5. An ambulance regulated under Minn. Stat. ch. 144. However, these standards shall apply to ambulances when they are providing special transportation services.

14 MCAR § 1.7002 Authority.

These standards are adopted pursuant to the requirements of Minn. Stat. § 174.30, subds. 2 and 5.

14 MCAR § 1.7003 Definitions.

A. "Ambulance" has the meaning given to it in Minn. Stat. § 144.801, subd. 2.

B. "Attendant" means a person who assists in the transportation of passengers in special transportation service vehicles, but who does not drive the vehicle.

B. C. "Commissioner" means the commissioner of transportation.

C. D. "Common carrier" means a regular route common carrier operating on fixed routes and schedules as defined in Minn. Stat. § 221.011, subd. 9.

D. E. "Disabled" means handicapped.

E. F. "Economically disadvantaged" means eligible for any form of public assistance provided for by state law.

F. G. "Elderly" means age 55 and older.

G. H. "Handicapped" means having a physical or mental impairment that limits one or more major life activities.

H. I. "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

I. J. "Motor vehicle" has the meaning given to it in Minn. Stat. § 169.01, subd. 3.

J. K. "Municipality" has the meaning given to it in Minn. Stat. § 466.01, subd. 1.

K. L. "Person" means every natural person, firm, partnership, corporation, association and body politic.

L. M. "Physical or mental impairment" means any physiological disorder or condition or anatomical loss; any mental or psychological disorder and specific learning disabilities and includes but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, mental retardation, emotional illness, drug addiction and alcoholism.

M. N. "Provider" means a public or private entity or person who operates special transportation service vehicles.

N. O. "Regular basis" means providing more than an average of 12 round trips per month in any calendar year in a single vehicle or transporting more than 30 passengers per month, whichever is less.

O. P. "School bus" has the meaning given to it in Minn. Stat. § 169.01, subd. 6.

P. Q. "Semi-ambulatory" means having the ability to walk with difficulty and or with the aid of ~~a prosthetic or orthotic device~~ an artificial limb or personal assistance device such as a brace, a cane, a crutch or a walker.

Q. R. "Special transportation service" means motor vehicle transportation provided on a regular basis by a public or private person that is designed exclusively or primarily to serve individuals who are elderly, handicapped, disabled or economically disadvantaged and who are unable to use regular means of transportation.

R. S. "State" has the meaning given to it in Minn. Stat. § 3.732, subd. 1, clause (1).

S. T. "Variance" means permission to comply in a manner other than that specified.

T. U. "Vehicle" means a motor vehicle used to provide special transportation service.

14 MCAR § 1.7004 Compliance.

A. No person shall provide special transportation service without a current annual certificate of compliance issued by the commissioner.

1. A certificate of compliance shall be issued when the standards set forth in these rules have been met.

2. A certificate of compliance shall be issued to a provider who transports an occupied wheelchair in a vehicle only if the vehicle has been issued a current numbered certificate by the commissioner of public safety pursuant to Minn. Stat. § 299A.14.

B. No special transportation service provider shall provide, offer to provide or represent itself as capable of providing life support transportation service unless it is licensed as required by Minn. Stat. § 144.802.

14 MCAR § 1.7005 Certification.

A. Application for a certificate of compliance shall be made on forms provided by the commissioner. Application forms for certificates of compliance may be obtained from any Department of Transportation district office. All applications shall be delivered or mailed to the Minnesota Department of Transportation, Division of Public Transportation, Transportation Building, St. Paul, Minnesota 55155.

B. Applicants shall submit the following information to the commissioner:

1. A provider application form containing the following information:

a. whether the application is new or a renewal;

b. the name, address, telephone number and area served by the provider;

c. the type of service provided, such as fixed route, route deviation, dial a ride, variable schedule, fixed schedule or other;

d. the category of passengers served (elderly, handicapped, disabled or economically disadvantaged);

e. for each vehicle:

(1) make and year;

(2) seating capacity;

(3) completed checklists showing whether each vehicle carries the safety equipment required by 14 MCAR § 1.7009 B. 1.;

f. if the vehicle will carry an occupied wheelchair:

(1) whether the vehicle is equipped with an approved wheelchair securement device;

(2) the date that the wheelchair securement device was approved by the commissioner of public safety and the number on the certificate issued by the commissioner of public safety;

g. the name and title of the person who is responsible for the provider's special transportation service;

h. the name and address of each driver, stating whether each complies with the standards set forth in these rules. This information shall be provided annually when the application for a certificate of compliance is filed.

2. A certificate of insurance which shall be mailed to the Department of Transportation by the applicant's insurer.

C. A certificate of compliance shall be granted when the commissioner determines that the applicant complies with the standards set forth in these rules.

D. All applications shall be processed and a certificate of compliance issued or denied in writing within thirty days of the receipt of the complete application by the commissioner and receipt of the certificate of insurance.

E. When a certificate is granted, the provider shall be issued a numbered certificate of compliance which lists each certified vehicle and shows the month and year in which the certification expires.

F. The commissioner shall maintain a record of all certificates of compliance showing the date issued, renewed or revoked.

14 MCAR § 1.7006 Renewal.

A. Thirty to sixty days prior to the expiration of any certificate of compliance, the provider shall request renewal of the certificate on a form provided by the commissioner.

B. The commissioner shall grant or deny requests for renewal in writing prior to the expiration date of the current certificate.

C. A new certificate listing each certified vehicle and showing the month and year in which the certification expires shall be issued to the provider.

14 MCAR § 1.7007 Inspection.

A. Upon receipt of a complaint that any certified provider does not comply with the standards set forth in these rules, the commissioner shall conduct an inspection of the provider's records and vehicles. The inspection shall be conducted within four weeks of receipt of the complaint.

B. All complaints shall be documented and a record maintained of the name and address of the person making the complaint, the date and reason for the complaint and the result of the inspection.

C. The commissioner shall notify any provider not less than 1 week in advance of an inspection and shall conduct the inspection at the provider's office or garage.

D. Inspections conducted under these standards shall comprise:

1. Examination of the records listed in 14 MCAR § 1.7011 A.; and

2. Examination of the vehicles to determine whether the provider complies with the requirements of 14 MCAR § 1.7009 B.

E. Failure to permit an inspection as provided in this section shall be grounds for immediate suspension of the provider's certificate of compliance until the provider permits the inspection.

14 MCAR §§ 1.7008 Enforcement.

A. Any provider found in violation of any provision of these rules shall be given a thirty day written notice to correct the violation. When the violation threatens the life or safety of passengers, the commissioner shall require the provider to remove the driver or vehicle from operation immediately.

B. At the expiration of thirty days, the commissioner ~~shall~~ may conduct an inspection to determine whether the violation has been corrected. In the case of violations other than those involving vehicle equipment, the provider may mail evidence of compliance to the department.

C. ~~If the violation is not corrected within thirty days, the commissioner shall revoke the certificate of compliance after holding a hearing upon reasonable notice to the provider.~~ If the violation has not been corrected, the commissioner shall suspend the certificate of compliance until the provider complies with the provisions of 14 MCAR §§ 1.7001 to 14 MCAR §§ 1.7013. No suspension shall occur unless the commissioner has held a hearing, after thirty days notice to the provider, at which the provider has had the opportunity to show cause why the certificate of compliance should not be suspended. Repeated violations may result in revocation of the certificate.

D. Any enforcement hearing conducted pursuant to these standards shall be conducted in accordance with Minn. Stat. ch. 15.

14 MCAR §§ 1.7009 Standards for operation of vehicles.

A. Personnel.

1. No driver shall operate a special transportation service vehicle unless that driver:

a. has visual acuity of 20/40 in each eye corrected and a field of vision of at least seventy degrees in the horizontal meridian of each eye; and

b. does not have a hearing loss greater than thirty db in the better ear with or without a hearing aid; and

c. has no current medical condition which interferes with the ability to drive safely.

2. Every two years each driver shall obtain, on a form prescribed by the commissioner, a physician's statement that the driver has no current medical condition which interferes with his or her ability to drive safely. This shall be obtained prior to employment as a driver of a special transportation service vehicle. Employees of facilities which are licensed by the Department of Health or the Department of Public Welfare and required by either of those departments to provide a physician's statement of health on a regular basis may substitute that form or statement for the form required in this section.

3. Each driver ~~or an~~ shall be able to perform a vehicle safety inspection and each driver and attendant in the case of a vehicle which is staffed by a driver and an attendant, shall be able to ~~perform a vehicle safety inspection,~~ assist a passenger into the vehicle and operate a wheelchair lift or ramp if the vehicle is equipped with it.

4. Each driver shall also meet the following criteria:

a. possess a Minnesota driver's license which is valid for the type of vehicle which he or she drives;

b. be at least eighteen years of age and have not less than one year of experience as a licensed driver; and

c. have a driving record clear of revocations, suspensions and cancellations for the past three years except for suspensions which result from unpaid parking tickets.

5. By January 1, 1982, each driver and attendant shall successfully complete a first aid or emergency care course of not less than four hours which shall include instruction in the following elements:

a. treatment of shock;

b. control of bleeding;

c. airway management;

d. prevention and treatment of frostbite and exposure to cold;

e. prevention and treatment of heat exhaustion and heat stroke;

f. identification of sudden illness such as stroke, heart attack, convulsions, fainting and seizures; and

g. appropriate use of emergency medical assistance services;

6. By January 1, 1982, each driver and attendant who transport passengers seated in wheelchairs or who assist passengers in transferring from a wheelchair to a vehicle shall complete a minimum of eight hours training in the techniques of transporting and assisting elderly and physically handicapped passengers which shall include instruction in the following elements:

a. discussion of characteristics of the aging process and major disabling conditions;

b. discussion of common assistive devices used by elderly and handicapped persons;

c. discussion of attitudes toward elderly and handicapped persons which includes the participation of handicapped and elderly persons;

d. instruction in methods of handling wheelchairs;

e. instruction in moving, lifting and transferring passengers;

f. guidelines for transporting handicapped persons; and

g. instruction in the operation of lifts, ramps and wheelchair securement devices if the vehicle to be operated is equipped with them.

7. By January 1, 1982, each driver and attendant who transport elderly and physically handicapped passengers who do not use wheelchairs or who transport passengers who do not transfer from a wheelchair to a seat in the vehicle shall complete a minimum of four hours training in the techniques of transporting and

assisting elderly and physically handicapped passengers, which shall include instruction in the elements listed in 14 MCAR § 1.7009 A. 6. a., b., c. and f.

8. Each driver and attendant shall receive instruction in the use of the fire extinguisher.

9. A driver or attendant hired after October 1, 1981, who has not completed the required training prior to providing special transportation service, shall do so within ninety days after beginning to provide such service. Copies of certificates indicating successful completion of courses shall be maintained in the provider's files.

10. Each driver and attendant must successfully complete a refresher first aid or emergency care course every three years. The refresher course shall include instruction in the elements listed in 14 MCAR § 1.7009 A. 5.

B. Equipment.

1. Each vehicle when in use shall carry the following safety equipment:

a. one five pound, dry chemical fire extinguisher, A:B:C type, bearing a tag indicating that it has been serviced within the preceding year;

b. an emergency first aid kit in a dustproof container, labeled "FIRST AID," and stored in a location visible to the driver. The kit shall contain at least the following items:

(1) six 4" x 4" sterile gauze pads;

(2) two soft roll bandages 6" x 5 yards;

(3) adhesive tape; and

(4) scissors;

c. a spare tire and jack unless the vehicle is radio-equipped and the provider has a service contract which enables him to summon assistance to change the tire or to summon a substitute vehicle;

d. an operable flashlight;

e. if a vehicle carries children who weigh less than ~~fifty~~ forty pounds, there shall be available in the vehicle a child restraint system which meets the requirements of federal motor vehicle safety standard no. 213, 49 C.F.R. § 571.213;

f. three emergency warning triangles. Both faces of each triangle shall consist of red reflective and orange fluorescent material. Each of the three sides of the triangular device shall be seventeen to twenty-two inches long and shall be two to three inches wide. The units shall be kept clean and in good repair and stored so as to be readily available when needed;

g. from October 1 to April 30, each vehicle shall carry an ice scraper and a blanket;

h. all vehicles with interior fuse boxes shall carry extra electrical fuses.

2. All seats shall be securely fastened to the floor or frame of the vehicle and all vehicles purchased after January 1, 1981 shall have a usable seat belt for each person being transported and for the driver.

3. All ramps shall have a slip-proof surface to provide traction and one end of the ramp shall be secured to the floor of the vehicle when the ramp is in use.

4. A vehicle which is equipped with a wheelchair lift and which carries semi-ambulatory persons who use the wheelchair lift shall be equipped with either a wheelchair lift with an adjustable or removable ~~railings~~ railing which are is thirty-six inches high on ~~two~~ one ~~sides~~ side of the lift or with a folding wheelchair stored on the vehicle when it is in use.

5. Vehicles which carry occupied stretchers or litters shall comply with securement device requirements of the Department of Health contained in 7 MCAR § 1.603 C. 4. and C. 1. b.

C. Operation.

1. All vehicles shall be maintained and operated in compliance with Minn. Stat. ch. 169 and rules adopted pursuant to that chapter.

2. All providers shall conduct or cause to be conducted, a daily visual safety inspection of the following items:

a. coolant level;

b. lights, turn signals, hazard flashers;

c. tires;

d. windshield wipers and washer fluid;

e. mirrors;

f. fuel level.

3. All providers shall conduct or cause to be conducted a vehicle safety inspection once each ~~a~~ week or every 1000 miles, whichever comes first. The date and mileage at each safety inspection and a notation of needed repairs and replacements shall be made in a driver's logbook which shall be maintained in the vehicle or in the provider's files. The safety inspection shall include inspection of the following items:

a. coolant level;

b. oil level;

c. lights, turn signals, hazard flashers;

d. tires and tire pressure;

e. brake, parking brake and brake fluid level, if visible in the engine compartment;

f. instrument panel;

g. horn;

h. windshield wipers and washer fluid;

i. fan belt;

j. mirrors, inside and outside;

k. wheelchair ramps and lifts and lift electrical systems, if applicable; and

l. wheelchair or stretcher securement device, if applicable.

4. Smoking shall be prohibited in vehicles at all times. A sign stating "NO SMOKING" shall be posted in the vehicle so that it is visible to all passengers.

5. Drivers and passengers shall use seat belts at all times in vehicles which are equipped with them and drivers shall instruct each passenger to use the seat belt. Children who weigh less than ~~fifty~~ forty pounds shall use approved child restraint systems at all times.

6. When any vehicle is stopped for any emergency purpose or is disabled on the roadway or shoulder of any highway outside a business or residence district during the time when lighted lamps must be displayed, the driver shall promptly place an emergency warning triangle on the roadway on the traffic side of the vehicle ten feet from the vehicle in the direction of approaching traffic. A second emergency warning triangle shall be placed approximately 100 feet from the vehicle in the direction of approaching traffic. If the vehicle is stopped or disabled on any one-way roadway, the driver shall place an additional warning triangle approximately 200 feet from the vehicle in the direction of approaching traffic.

D. Maintenance.

1. All vehicles shall be maintained in accordance with the manufacturer's recommended maintenance schedule or an improved schedule based on actual vehicle operating conditions.

2. Providers shall correct any deficiency which might interfere with the safe operation of the vehicle before the vehicle is placed in service.

3. Windows and lights shall be kept clean.

4. Interior of vehicles shall be clean and in good repair.

14 MCAR § 1.7010 Insurance.

A. Each provider shall have in effect an insurance plan which provides the following minimum coverage for each vehicle:

1. Basic economic loss benefits as required by Minn. Stat. ch. 65B;

2. Residual liability coverage in the following minimum amounts:

a. private providers; $100,000 for bodily injury to, or death of any one person in a single accident, subject to a maximum of $300,000 for bodily injuries to, or the death of two or more persons in a single accident, and $50,000 for destruction of, or damage to property in a single accident, or if the policy is written on a single limit basis, $300,000 per occurrence;

b. municipalities; $100,000 for bodily injury to, or death of any one person in a single accident, subject to a maximum of $300,000 for bodily injury to, or death of two or more persons in a single accident, and $50,000 for destruction of, or damage to property in a single accident;

c. the state; $100,000 for bodily injury to, or death of any one person in a single accident, subject to a maximum of $500,000 for bodily injury to, or death of two or more persons in a single accident, and $100,000 for destruction of, or damage to property in a single accident.

3. Uninsured motorist coverage as required by Minn. Stat. ch. 65B.

B. Each provider shall obtain a certificate of insurance for the special transportation service vehicles which it operates. The provider's insurer shall mail the certificate of insurance to the Minnesota Department of Transportation, Division of Public Transportation, Transportation Building, St. Paul, Minnesota 55155. The certificate shall show the vehicles covered by the policy and the

policy limits. The insurer shall notify the department in writing ten days prior to the termination of coverage by either party.

C. A provider ~~shall~~ may qualify as a self-insurer by providing evidence that it has complied with the requirements of Minn. Stat. § 65B.48, subd. 3.

14 MCAR § 1.7011 Records.

A. Each provider shall maintain files containing the following information:

1. For each driver, a driver's application form which contains the following information:

a. the name, address and birthdate of the driver;

b. the driver license number and the class of the license;

c. whether the driver has had at least one year of driving experience;

d. whether the driver's license has been revoked, suspended or cancelled within the three year period prior to this application;

e. the date on which the driver successfully completed at least four hours of training in first aid as required by 14 MCAR § 1.7009 A. 5.;

f. the date on which the driver successfully completed training in the techniques of transporting and assisting elderly and physically handicapped passengers as required by 14 MCAR § 1.7009 A. 6. or 7. whichever is applicable;

g. the date and location at which driver was trained in the use of the fire extinguisher;

2. For each driver, the physician's statement, that the driver has no current medical condition which interferes with his or her ability to drive safely;

3. For each attendant, an attendant's application form which contains the following information:

a. the name and address of the attendant;

b. the date on which the attendant successfully completed at least four hours of training in first aid as required by 14 MCAR § 1.7009 A. 5.;

c. the date on which the attendant successfully completed training in the techniques of transporting and assisting elderly and physically handicapped passengers as required by 14 MCAR § 1.7009 A. 6. or 7. whichever is applicable;

d. the date and location at which the attendant was trained in the use of the fire extinguisher;

4. All correspondence with the commissioner, including the certificate of compliance;

5. All accident records;

6. A record of all insurance claims arising from the operation of the vehicle;

7. Service records for each vehicle indicating the date, the odometer reading and the nature of the repair or replacement each time the vehicle was serviced;

8. The driver's logbook for each vehicle, unless the logbook is maintained in the vehicle.

B. The following documents shall be maintained in each vehicle:

1. A card showing the name of the insurance company which insures the vehicle and the telephone number of the insurance agent;

2. Accident report forms;

3. A card showing local emergency telephone numbers.

14 MCAR § 1.7012 Certification of training courses.

A. All training courses shall be approved by the commissioner prior to being offered to fulfill the requirements of these rules.

B. The application for approval of a training course shall be made on a form prescribed by the commissioner. A course shall be approved if it meets the following minimum standards:

1. It shall include instruction in the elements required by these standards;

2. The application shall specify when and where the instructor has previously taught the course;

3. The name, address, employment and relevant training of the instructor must be shown;

4. The name and address of any institution which is sponsoring the course must be shown.

C. Instructors.

1. A first aid course shall be taught by any person who is a licensed physician, registered nurse, licensed practical nurse, a paramedic, an emergency medical technician, or a certified first aid instructor or a physician's assistant.

2. Passenger assistance technique training shall be taught by any person who is a licensed physician, registered nurse, registered physical therapist, registered occupational therapist, public health nurse or other health professional who has had work experience with physical disabilities, aging and communication disorders or by a team which includes one of those persons.

D. Applications for approval of training courses shall be granted or denied in writing by the commissioner within thirty days of receipt of the complete application.

14 MCAR § 1.7013 Variance.

A. The commissioner may grant a variance from any of these rules except 14 MCAR § 1.7004.

1. A variance shall be granted if the applicant shows that:

a. the rationale for the rule or rules in question can be met or

exceeded by the specific alternative practice which the applicant proposes to substitute;

b. the application of the rule in question would impose an excessive burden on the applicant; and

c. the granting of the variance will not adversely affect the public health and safety.

2. The commissioner shall set forth in writing the reasons for granting or denying the variance, within thirty days of receiving the application. If the variance is denied, the applicant may, within thirty days of receiving notice of the denial, request a contested case hearing.

3. Any special transportation service provider that is granted a variance shall comply with the alternative practice specified in its successful application for a variance.

4. B. Any special transportation service provider that has been granted a variance shall immediately notify the Department of Transportation if any material change occurs in the circumstances which justified granting the variance.

5. C. A variance shall be revoked if a material change occurs in the circumstances which justified granting the variance, or if the applicant fails to comply with the alternative practice specified in the application for a variance.

14 MCAR § 1.7014 to 1.7050 Reserved for future use.

APPROVED AS TO FORM AND LEGALITY
4-14 1981
WARREN SPANNAUS, ATTORNEY GENERAL
BY
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
APR 15 1981
Joan Anderson Growe
Secretary of State
9:06 AM

April 14, 1981 296-0369

Mr. Duane Harves
Chief Hearing Examiner
Office of Administrative Hearings
Room 300
1745 University Avenue
St. Paul, Minnesota 55104

Dear Mr. Harves:

This is to confirm our conversation of 4:30 p.m., Monday, April 13, 1981, with respect to certain changes to the adopted rules of the Minnesota Department of Transportation, entitled Operating Standards for Special Transportation Service. The changes which I read to you over the telephone have been made to the rules at 14 MCAR §§ 1.7008 A. and C. These were recommended by the Attorney General's Office as non-substantive changes and you agreed that these changes are non-substantial.

In addition, we have made 23 changes recommended by the Office of the Revisor of Statutes to correct typographical and stylistic errors. You agreed that these changes were also non-substantial. A copy of the supplemental order adopting these changes and a copy of the rules containing the changes noted above are attached for your information.

Very truly yours,

Betsy Parker

Attachments

cc: Richard P. Braun
Robert J. McDonald
Gene Ofstead
Al Schenkelberg
Steve Buffington - Attorney General's Office
Jerry Anderson - Attorney General's Office

STATE OF MINNESOTA

OFFICE OF THE ATTORNEY GENERAL

In the Matter of the Proposed Adoption of Rules of the Department of Transportation Relating to Operating Standards for Special Transportation Service.	STATEMENT OF COMPLIANCE WITH RULEMAKING PROCEDURES

- -

I, Gilbert S. Buffington, Special Assistant Attorney General, do hereby declare that I have examined the rules and all related documents and that, based on my examination and my personal familiarity with the applicable procedures, the Administrative Procedure Act, the rules of the Office of Administrative Hearings, and the rules of the Attorney General have been followed. Any exceptions are noted below.

Gilbert S. Buffington
Special Assistant Attorney General

Dated: March 25, 1981

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
ROOM 300 – 1745 UNIVERSITY AVENUE
ST. PAUL, MINNESOTA 55104
(612) 296-6910

January 8, 1981

Ms. Betsy Parker
Operating Standards Coordinator
Department of Transportation
Room 818, Transportation Building
Saint Paul, Minnesota 55155

Re: In the Matter of the Proposed Adoption of Rules of the Department of Transportation Relating to Operating Standards for Special Transportation Service. Docket No. DOT-81-007-GB.

Dear Ms. Parker:

Enclosed and served upon you by mail, please find the Report of the Hearing Examiner in the above-entitled matter. I also enclose the official record, including the transcript of the proceedings. Please note that the official record is being forwarded to you via interoffice mail in two parts.

Sincerely,

George A. Beck

GEORGE A. BECK
State Hearing Examiner

Telephone: 612/296-8108

GAB:sw
Encs.

AN EQUAL OPPORTUNITY EMPLOYER

DOT-81-007-GB

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE DEPARTMENT OF TRANSPORTATION

In the Matter of the Proposed Adoption of Rules of the Department of Transportation Relating to Operating Standards for Special Transportation Service.

REPORT OF THE HEARING EXAMINER

The above-entitled matter came on for hearing before State Hearing Examiner George A. Beck on December 2, 1980, at 10:00 a.m. in the State Office Building, Room 81, in the City of Saint Paul, Minnesota.

This Report is a part of a rule hearing procedure pursuant to Minn. Stat. §§ 15.0411 - 15.0417 and 15.052 to determine whether the proposed rules should be adopted by the Department of Transportation. A copy of this Report may be obtained from the Office of Administrative Hearings for the cost of reproduction.

Members of the agency panel appearing at the hearing included: Betsy Parker, Operating Standards Coordinator, Department of Transportation; Al Schenkelberg, Director, Modal Planning, Department of Transportation; and Gilbert S. Buffington, Special Assistant Attorney General, representing the Department of Transportation.

Fifty-three people signed the hearing register. Eighteen public witnesses appeared and spoke at the hearing. The Department submitted 29 written exhibits. Thirty-two written comments were received from the public.

Pursuant to Minn. Stat. § 15.0412, subd. 4d and 4e (Minn. Laws 1980, Ch. 615, §§ 6 and 7), this Report shall be available for review to all affected individuals upon request for at least five working days. Thereafter, the Commissioner of Transportation shall, if he proposes to adopt the rule as recommended herein, submit the rule, together with the complete hearing record to the Attorney General and shall be responsible for notifying persons who have indicated that they wish to be notified of such filing. If the Commissioner makes changes in the rule other than those recommended herein, he shall submit the rule with the complete hearing record to the Chief Hearing Examiner for a review of the changes prior to submitting it to the Attorney General for review.

Based upon all the testimony, exhibits and written comments, the Hearing Examiner makes the following:

FINDINGS OF FACT

Procedural Requirements

1. On October 8, 1980, the Department filed the following documents with the Chief Hearing Examiner:

(a) A copy of the proposed rules.
(b) A proposed Order for Hearing.
(c) A proposed Notice of Hearing.
(d) A draft of the Statement of Need and Reasonableness.

2. On October 31, 1980, the Department filed the following documents with the Hearing Examiner:

(a) The Order for Hearing.
(b) The Notice of Hearing as mailed.
(c) A copy of the final draft of the proposed rules.
(d) The Affidavit of Mailing.
(e) A Memorandum naming the Department personnel who would represent the Department at the hearing.
(f) The Order of the Chief Hearing Examiner approving incorporation by reference of the Federal Motor Vehicle Safety Standard No. 213, said Order dated August 26, 1980.
(g) A Notice of Intent to Solicit Opinion concerning the proposed rules which was published in the State Register on April 7, 1980, at 4 State Register 1626.
(h) All materials received following the Notice of Intent to Solicit Outside Opinion.

3. On November 7, 1980, the following documents were filed with the Hearing Examiner:

(a) A Certificate as to completeness of the mailing list.
(b) An Affidavit of Additional Notice.
(c) A final draft of the Statement of Need and Reasonableness.
(d) A copy of the State Register in which the rules were published.

4. The proposed rules were published at 5 State Register 633 on October 20, 1980.

5. On October 24, 1980, the Department mailed the Notice of Hearing to all persons and associations who have placed their name on file with the Department for the purpose of receiving notice of rulemaking activity. Additionally, notice was mailed to all persons who were registered with the Secretary of State on July 31, 1980, to receive rule hearing notices from the Department of Transportation.

6. All of the documents cited above were available for inspection at the Office of Administrative Hearings from the date of filing to the date of the hearing.

7. The record remained open through December 22, 1980, for the receipt of written comments and statements, the period having been extended by order of the Hearing Examiner to 20 calendar days following the hearing.

Statutory Authority

8. The Department cites Minn. Stat. § 174.30, subd. 2, 4 and 5 (1979 Supp.) as statutory authority for the adoption of the proposed rules. The subdivisions read as follows:

> Subd. 2 Authority to adopt; purpose and content; rulemaking. The commissioner of transportation shall adopt standards for the operation of vehicles used to provide special transportation service which are reasonably necessary to protect the health and safety of individuals using that service. The commissioner, as far as practicable, consistent with the purpose of the standards, shall avoid adoption of standards that unduly restrict any public or private entity or person from providing special transportation service because of the administrative or other cost of compliance.

Standards adopted under this section may include but are not limited to:

(a) Qualifications of drivers and attendants including driver training requirements;

(b) Safety equipment required for vehicles;

(c) General requirements concerning maintenance of standard equipment of vehicles; and

(d) Minimum insurance requirements.

* * *

Subd. 4. Certificate of compliance. The commissioner of transportation shall issue an annual certificate of compliance for each vehicle used to provide special transportation service which complies with the standards adopted under this section. A vehicle subject to subdivision 3 shall be issued a certificate of compliance only if the vehicle also complies with sections 299A.11 to 299A.18. The commissioner shall provide procedures for determining compliance and issuing the certificates. The procedures may include inspection of vehicles and examination of drivers.

Subd. 5. Rules. The standards authorized under subdivision 2 and the procedures authorized by subdivision 4 shall be adopted by rule in accordance with chapter 15. Not later than November 15, 1979, and before proposing any rules under this section the commissioner shall:

(a) Make available a draft of the rules, a plan for enforcing the rules and a proposed budget for the necessary enforcement activities of the department for review by the standing committees on transportation in both houses of the legislature; and

(b) Review the draft rules, enforcement plan and proposed budget with the interagency task force on coordination of special transportation service. The commissioner shall adopt the rules necessary to implement this section and commence enforcement of those rules not later than July 1, 1980.

The Department has demonstrated its general statutory authority to adopt the proposed rules.

9. As the above-quoted statutory excerpt indicates the purpose of this rule hearing proceeding is to adopt standards for the operation of vehicles used in special transportation services in the State of Minnesota. A special transportation service is defined by Minn. Stat. § 174.29, subd. 1 (1979 Supp.) to mean "motor vehicle transportation provided on a regular basis by a public or private entity or person that is designed exclusively or primarily to serve individuals who are elderly, handicapped, disabled, or economically disadvantaged and who are unable to use regular means of transportation." For the purpose of these operating standards, Minn. Stat. § 174.30, subd. 1 (1979 Supp.) provides that special transportation service does not include "transportation provided by a common carrier operating on fixed routes and schedules, a taxi, a volunteer driver using a private automobile, a school bus as defined in section 169.01, subdivision 6, or an emergency ambulance regulated under chapter 144."

10. The Interagency Task Force on Coordination of Special Transportation Programs includes six representatives from six different state agencies,

representatives from the Board on Aging and the State Council for the Handicapped, two regional development commission representatives, two public transportation operators, one representative of a health care facility, one representative of a private provider, and one representative from the private nonprofit provider sector. The task force, pursuant to statute, reviewed eight drafts of the proposed rules prior to the initiation of this rule hearing proceeding. (Tr. 20)

11. By letters dated October 3, 1980, the Department sent to State Representative Stanley Fudro, Chairman of the House Transportation Committee, and to State Senator Clarence Purfeerst, Chairman of the Senate Transportation Committee, a draft of the rules, which contain an enforcement plan, and a proposed budget for the necessary enforcement activities of the Department. (Ex. 7, Appendix C and D)

12. The final draft of the proposed rules and the Notice of Public Hearing were mailed not only to the Department's rule hearing notice list consisting of approximately 600 names, but also to 100 developmental achievement centers in the state, to an additional 200 people on a list of persons known to be interested in the proposed rules which was accumulated during the drafting and revision of the proposed rules, and to an additional 60 miscellaneous persons. (Tr. 22) The proposed rules proceeded through 12 drafts, nine of which were circulated to the public. (Tr. 21)

General Comments

13. A number of organizations expressed general support for the proposed rules as a whole. They included the Arrowhead Transit System (Tr. 63), the State Planning Council on Developmental Disabilities (Tr. 75), the Minnesota State Council for the Handicapped (Tr. 81; Ex. L, p. 1), the Minnesota Board on Aging (Tr. 86; Ex. G), the St. Paul Area Red Cross (Tr. 99), the Metro Ambulance Assocation (Tr. 208), the Arrowhead Regional Development Commission (Ex. S), and the Minnesota Department of Health (Ex. DD). Several residential treatment centers stated that the rules were unneeded and duplicative of existing rules (Exs. A, C, D, F). The St. Cloud MTC also saw the rules as unneeded (Ex. O), as did the Redwood County Developmental Achievement Center (Ex. B). The Greater St. Cloud Area Retired Senior Volunteer Program, which operates a 15-passenger van, believes the rules are unneeded (Ex. P), and the Nopeming Nursing Home stated that the rules would curtail patient transportation because of the need for additional training (Ex. T).

14. The proposed rules will apply to the special transportation services provided by facilities which are otherwise regulated by the State Department of Public Welfare (DPW) and the State Department of Health, including nursing homes, headstart programs, developmental achievement centers, day care centers, residential facilities for the handicapped and mentally retarded and group homes for emotionally disturbed persons. DPW Rule 5 regulates the programs and facilities which serve mentally ill and emotionally handicapped children. The Minnesota Council of Residential Treatment Centers (Ex. J) and a number of individual residential treatment centers regulated under DPW Rule 5 (Exs. C, D, F) stated that DPW Rule 5 provided adequate regulation and that residential treatment centers ought to be exempted from the proposed rules

since children with emotional problems are not handicapped and could use regular transportation. The Department pointed out that there is no specific mention of transportation in DPW Rule 5, although several of the proposed rules for driver qualifications are similar to those imposed on staff by Rule 5. DOT states that transportation is not regulated under DPW Rule 5 and that the proposed rules will bring a unified regulatory system to the transportation programs of many different public and private profit and nonprofit transportation providers. (Ex. 29, pp. 3-4) To the extent that a residential treatment center can demonstrate that its residents do not fall within the statutory definition of a special transportation service because its residents are able to use regular means of transportation or because the residents are not handicapped within the meaning of 14 MCAR § 1.7003 G. and L., then they would in fact not be regulated by these proposed rules.

15. Some of the groups regulated under DPW Rule 3, namely group day care centers, stated that the proposed rules are not coordinated with DPW Rule 3, especially in regard to the requirement for a child restraint system for children under 40 pounds. (Ex. V) DOT pointed out that DPW Rule 3 does not regulate the manner in which transportation service is provided and that the requirement in Rule 3 of the children who are under 2-1/2 years of age be transported in a child restraint system is not in conflict with the proposed rules, but rather, the proposed rules would add an additional requirement at a relatively small cost per program. DOT states that there is no conflict between Rule 3 and the proposed rules. (Ex. 29, pp. 3-4)

The Cost of the Proposed Rules

16. In its Notice of Hearing, DOT stated that it did not anticipate that adoption of the proposed rules would result in the expenditure of public monies by local bodies of government for the two years immediately following their adoption within the meaning of Minn. Stat. § 15.0412, subd. 7 (1978). The Minnesota Association of Health Care Facilities (MAHCF) stated its belief that with additional cost to municipal and county nursing homes and to municipalities, the statutory threshold of $100,000 might be exceeded. (Tr. 153) The MAHCF was particularly concerned with the failure of the Department of Public Welfare to amend its DPW Rule 47 which it believes would be the appropriate reimbursement mechanism for facilities in providing special transportation and stated that it would be impossible for long-term care facilities to come into compliance with these proposed rules unless DPW acts. (Ex. EE, pp. 1-2) Other commentors were concerned generally with the cost of the proposed rules which they believed might be significant. (Ex. J, p. 4) An intermediate care facility for the mentally retarded believed that their per diem rate might be increased $1.50 to $2.00 per day. (Ex. A) The St. Cloud MTC estimated its cost of compliance at $5,500. (Tr. 190) The MAHCF pointed out that there were 430 nursing homes in the state which may have more than one driver and that if there are large costs to train the drivers, the total cost could be significant. (Tr. 113) The Arrowhead Transit System estimated that the cost of implementing the rules would be 3-1/2% of their budget, but they also foresaw lower maintenance, fewer workers' compensation claims and fewer accidents as a result of the proposed rules. (Tr. 65-66)

17. In regard to compliance with the statutory standard, DOT pointed out that only 53 of the 440 nursing homes in the state are owned by local governmental subdivisions and that only a small proportion of the residential facilities are owned by local government units. DOT stated that virtually all of the residential treatment facilities and nonresidential treatment programs currently provide inservice training to their personnel in regard to fire extinguishers and first aid kits, and also require medical examinations for their employees. DOT intends to establish training courses around the state to assist facilities. The principal new burden would be passenger assistance training and the Department proposes to provide this free-of-charge. Most of the facilities already have people who would qualify as instructors for both first aid and passenger assistance training under the rules as they are proposed. DOT believes that the minimal nature of the proposed rules and the fact that few new requirements will have to be met will keep the costs under the statutory threshold. DOT believes that based upon its conversations with DPW, facilities reimbursed by DPW could write the cost of compliance with the proposed rules into their per diem rates. (Ex. 29, pp. 5-6) It is concluded that DOT has complied in good faith with the requirements of Minn. Stat. § 15.0412, subd. 7 (1978).

14 MCAR § 1.7001 Scope

18. This rule essentially restates the statutory definitions quoted above to explain to which services the standards do and do not apply. To the extent that they duplicate the statutory language, such duplication is crucial to the ability of a person affected by the rule to comprehend its meaning and effect pursuant to Minn. Stat. § 15.0412, subd. 1. The MAHCF questioned, in regard to this rule, whether or not it was the intent of the legislature to regulate programs and facilities which are already regulated by various governmental entities and which only incidentally provide transportation to their clients. It also noted the concern of day care programs whose children are defined to be economically disadvantaged who would be required to comply while day care centers in more affluent areas would not. (Ex. EE, pp. 2-3; Tr. 33-37) The broad statutory definition of special transportation service and the accompanying specifically stated exceptions would seem to clearly indicate an intent to regulate the transportation services of nursing homes, day care centers and other similar facilities.

19. In regard to Section 1.7001 B.2., the Developmental Disabilities Council questioned whether or not taxis are covered when they are involved in a program like Metro Mobility. (Tr. 75) The Department may wish to consider whether or not this is the case and whether or not an addition might be made to this proposed rule subsection similar to the second sentence contained in Section 1.7001 B.5. The rule, as proposed, is needed and reasonable.

no change p. 1

14 MCAR § 1.7003 Definitions

20. The Special Transportation Providers Association (STPA) requested that a definition of "attendant" be included in these rules. (Tr. 102; Ex. M, p. 3) DOT proposed to add such a definition as Section 1.7003 B. with the remaining definitions to be relettered:

added p. 2

"Attendant" means a person who assists in the transportation of passengers in special transportation service vehicles, but who does not drive the vehicle.

The amendment is needed and reasonable, and would not render the proposed rule substantially different from that published in the State Register.

21. Section 1.7003 N. defines the statutory language "regular basis". As proposed, it provided that regular basis would mean more than 12 trips per month or more than 30 passengers per month, whichever is less. The MAHCF questioned the reasonableness of the definition as proposed since it could require a provider to come under regulation because of a single event in one month. The MAHCF suggested at the hearing that it would be more reasonable to employ an average in the definition. (Tr. 116, 152) In its post-hearing comments, DOT proposed that the definition be amended as follows:

"Regular basis" means providing more than an average of 12 round trips per month in any calendar year in a single vehicle or transporting more than 30 passengers per month whichever is less.

so amended p. 3

Some commentors, however, also felt that the number of round trips or passengers per month was not reasonable. Persons involved in a van ride program to bring the elderly to church in Willmar asked that the figures be set at 15 round trips and more than 75 passengers per month. (Exs. Z, CC) The MAHCF stated in its post-hearing comments that an average of 12 round trips per month is well below what ought to be characterized as "regular" and suggested that the minimum number of round trips be expanded to 24 per month, and that the passenger threshold be increased to 288 per month. (Ex. EE, p. 4) The Department stated that its proposed numbers are based on conversations with representatives of social service agencies who transport their clients and that most agencies who provide a minimal amount of transportation seem to provide from two or three to a dozen trips per month. The number 12 was selected keeping in mind that the statute requires only the minimum standards necessary to protect passengers and was approved by the interagency task force. (Ex. 7, p. 13) The proposed definition, as amended, has been shown to be needed and reasonable. The amendments do not represent a substantial difference from the proposed rule subsection as published.

22. Section 1.7003 P. defines "semi-ambulatory". The Planning Council on Developmental Disabilities suggested that the word "and" should be changed to "or" and that the last nine words of the definition be replaced with the phrase "with the aid of an artifical limb or personal assistance device such as braces, a cane(s), a crutch(es) or a walker." The Department may consider the suggestion. The definition is needed and reasonable as proposed.

amended p. 3

14 MCAR § 1.7004 Compliance

23. This section provides that no person shall provide special transportation service without a current annual certificate of compliance. The MAHCF is concerned about the possibility of a backlog of applications for renewal and suggested that the rule could provide that upon annual recertification, the previous year's certificate would continue in force until a new certificate is issued or unless a new application is rejected. (Ex. EE, p. 5) The

Department may consider the suggestion. The rule is needed and reasonable as proposed.

14 MCAR § 1.7005 Certification

24. Section 1.7005 B.1.h. requires that a provider's application contain the name and address of each driver. The MAHCF stated that it was unreasonable to have each provider give the name and address of each driver except on an annual basis. (Tr. 117; Ex. EE, p. 5) In its post hearing comments, the Department proposed to add the following sentence to the rule subsection: "This information shall be provided annually when the application for a certificate of compliance is filed." (Ex. 29, p. 1) So amended, the rule subsection is needed and reasonable. The additional language does not render the rule substantially different from that published in the State Register.

25. Section 1.7005 B.2. requires that a certificate of insurance be mailed to DOT by the applicant's insurer. The Southwest Regional Development Commission (SWRDC) suggests that the applicant be allowed to mail the certificate of insurance with his application. (Ex. W) The Department may consider this suggestion. The rule is needed and reasonable as proposed.

26. The Department should consider deleting the words "the commissioner determines that" from Section 1.7005 C. since it might be interpreted to give the Commissioner discretion beyond that of matching the information supplied by the applicant against the standards set out in these rules in making a decision on issuance of a certificate.

14 MCAR § 1.7006 Renewal

27. In regard to Section 1.7006 C., the MAHCF suggested issuing a sticker for each vehicle which is certified. (Ex. EE, pp. 5-6) DOT may consider this suggestion. The rule subsection is needed and reasonable as proposed.

14 MCAR § 1.7007 Inspection

28. Section 1.7007 C. requires the Commissioner to give a provider not less than one week notice of an inspection. The State Council for the Handicapped argued in favor of a two days' notice instead of one week so that the Department would be more likely to catch violations. (Tr. 84-85; Ex. L, p. 2) DOT may consider the suggestion. The rule is needed and reasonable as proposed.

14 MCAR § 1.7008 Enforcement

29. Section 1.7008 A. provides that any provider found in violation shall be given a 30-day written notice to correct the violation. The Planning Council on Developmental Disabilities suggested that language be added providing that where the violation threatened the life or safety of passengers the Commissioner could require the provider to remove the vehicle or driver from operation immediately. (Ex. E, p. 1) The MAHCF asked that the language be amended to provide that a minimum of 30 days' notice be required to correct the violation to allow for the unavailability of certain parts or service. (Ex. EE, p. 6) Although the rule as proposed is needed and reasonable, the Department should consider whether either of these two suggestions would

result in a more workable rule or a rule which better reflects legislative intent.

30. Section 1.7008 B. requires the Commissioner to conduct an inspection at the end of 30 days. The MAHCF suggested that this might be amended so as not to require an onsite inspection since the provider may be able to mail evidence of compliance to the Department, such as evidence of a driver completing education. (Ex. EE, p. 6) The Department may consider the suggestion. The subsection is needed and reasonable.

so amended p. 7

31. Section 1.7008 C. requires the Commissioner to revoke the certificate if a violation is not corrected within 30 days. The Planning Council on Developmental Disabilities suggested that the subsection be rephrased to make it clear that the hearing would determine whether or not a revocation would occur and asked that the phrase "reasonable notice" be defined. (Ex. E, p. 2) The MAHCF suggested that the use of a suspension be considered instead of revocation since circumstances will occur where violations are minor and the Commissioner may wish to simply suspend a certificate or place certain conditions upon it. It also suggested defining the notice period for the hearing. (Ex. EE, p. 6)

32. In its post-hearing comments, DOT proposed to substitute the following language for the subsection as originally proposed:

> If, after holding a hearing upon reasonable notice to the provider, the commissioner determines that the violation has not been corrected, the commissioner shall suspend the certificate of compliance until the provider complies with the operating standards. (Ex. 29, p. 2)

Although this substitution is needed and reasonable and would not be substantially different from that which was published, the Hearing Examiner would make the following suggestions (none of which would appear to constitute a substantial change):

a. The use of the language "the commissioner determines" once again implies discretion beyond that of comparing the actions of the provider with the requirements of the rule or statute; this language is unnecessary and should be avoided.

b. Although the option of suspension should be provided for in the rule, the option of revocation should not be abandoned since in the case of a repeated offender, it may be appropriate, or the individual violation may be so serious, as to justify revocation even though the provider corrects the problem. The Department may, as MAHCF suggests, wish to consider other flexible remedies such as placing a condition upon the certificate or merely censuring the provider.

see new language p. 7

c. Since 9 MCAR § 2.204 B. of the rules of the Office of Administrative Hearings for contested cases requires 30 days' notice prior to a Chapter 15 contested case hearing, the Department may simply wish to state this in its rule.

14 MCAR § 1.7009 A. - Standards for Operation of Vehicles - Personnel

33. Section 1.7009 A.2. requires a driver to obtain a physician's statement every two years that he has no current medical condition which would interfere with his driving ability. This is to be done on a form prescribed

by the Commissioner. The Planning Council on Developmental Disabilities suggested that the physician's statement should address each item in Section 1.7009 A.1. (Ex. E, p. 2) The MAHCF was concerned that the "form prescribed by the commissioner" might include substantive requirements which should in fact be stated in rule. (Ex. EE, p. 7) At the hearing, the Department stated that its intention was simply to have a physician's statement that the driver had no current unsafe medical condition. If this is the Department's intent, it should simply delete the language dealing with a form. Should the Department attempt to put substantive requirements into the form beyond that stated in the rule as proposed, it would be required to proceed to rulemaking with the form on a subsequent occasion.

no change

34. In its post-hearing comments, DOT suggested that the following language be added to the rule as proposed:

> Employees of facilities which are licensed by the Minnesota Department of Health or the Minnesota Department of Public Welfare and required by either of those departments to provide a physician's statement of health on a regular basis may substitute that form for the form required in this section. (Ex. 29, p. 2)

added p.8

So amended, the rule is needed and reasonable and does not constitute a substantially different rule from that which was published. Should the Department delete the language relating to "a form", then the word "form" in the proposed additional language could be replaced by the word "statement".

35. Section 1.7009 A.3. as proposed required the driver and attendant to be able to perform a safety inspection, assist a passenger and operate a wheelchair lift or ramp. MAHCF stated that it would not be necessary for the attendant to be able to conduct inspections. (Tr. 124; Ex. EE, p. 7) In its post-hearing written comments, the Department proposed to substitute the following language for the rule subsection as originally proposed:

> Each driver shall be able to perform a vehicle safety inspection and each driver and attendant, in the case of a vehicle which is staffed by a driver and an attendant, shall be able to assist a passenger into the vehicle and operate a wheelchair lift or ramp if the vehicle is equipped with it. (Ex. 29, p. 2)

so amended p.8

So amended, the rule is needed and reasonable and is not substantially different from the rule subsection as published.

36. Section 1.7009 A.4. sets out the requirements for drivers. The STPA asked that the rule specifically state that these requirements apply only to drivers hired after the adoption of the rules. (Tr. 102; Ex. M, p. 3) The Department may consider this as a matter of policy.

37. Section 1.7009 A.4.a. requires a Minnesota driver's license as originally proposed. The STPA (Tr. 102; Ex. M, p. 3) and the MAHCF (Ex. EE, p. 7) supported deleting the word "Minnesota". DOT agreed to this deletion. (Ex. 29, p. 2) So amended, the proposed rule subsection is needed and reasonable and not substantially different.

deleted p.8

38. Section 1.7009 A.4.c. requires a driving record clear of revocations, suspensions or cancellations except those related to unpaid parking tickets. The MAHCF suggested substituting "non-moving violations" for unpaid parking tickets. (Tr. 127; Ex. EE, p. 8) Although the subsection as proposed is

needed and reasonable, the Department should consider whether or not the suggestion would be fairer to potential drivers while providing the same protection to passengers. no change

39. Section 1.7009 A.4.b. requires the driver to be 18 years old, and have one year of experience as a licensed driver. MAHCF questioned the reasonableness of this requirement since it would not necessarily guarantee that a person will have experience as a driver. (Tr. 125; Ex. EE, p. 7) The rule, as proposed, cannot be said to be arbitrary or unreasonable since it does increase the likelihood that the driver will have greater experience. The Department may wish to consider rephrasing the rule in order to increase that likelihood. no change

40. Section 1.7009 A.5. requires each driver and attendant to complete a first aid course of not less than four hours before January 1, 1982. The St. Cloud MTC said that first aid training is unnecessary since emergencies are unusual and radios are used to summon help. (Tr. 187; Ex. O, p. 9) The Rochester School Bus Service also thought this training to be unnecessary and saw the possibility of liability for driver mistakes. (Ex. Q) The Minneapolis-St. Paul MTC suggested that a two-way radio could be an alternative to the first aid requirement. (Tr. 169; Ex. I) The Minnesota Health Department stated that it believed that the first aid instruction required by the rule is minimal. (Ex. DD) The STPA asked that the instruction specifically include the needs of the elderly and CPR. (Tr. 104; Ex. M, p. 3) The MAHCF supported a grandfather clause for all existing drivers in regard to the training under this rule and subsequent subsections which require training. (Tr. 29; Ex. EE, p. 8) The Department stated that special transportation passengers are often at greater risk medically than the average population and that the training required is very minimal. The training would include the appropriate use of emergency medical assistance, and would teach the drivers when not to attempt first aid as well as when they should. (Ex. 7, p. 31) The Department has demonstrated the need for and reasonableness of the first aid course, especially in light of the lack of a requirement for two-way radio in special transportation vehicles.

41. Section 1.7009 A.6. requires a minimum of eight hours of training in the techniques of transporting elderly and physically handicapped passengers. The Rochester School Bus Service (Ex. Q, p. 2) suggested that eight hours of training was too much and the St. Cloud MTC stated that four to six hours would be sufficient. (Tr. 188; Ex. O, p. 9) The Sister Kenny Institute supported the requirements of this rule and estimated the cost to be only $25 per person for training. (Tr. 92) The STPA again suggested changing the compliance date to either provide that it would not apply to current drivers or that it apply one year after the adoption of the rules. (Ex. M, p. 4) The Department indicated that the requirements and length of training were based upon expert advice from the Sister Kenny Institute and the Control Data Corporation's homework program. The rule subsection is needed and reasonable as proposed.

42. Section 1.7009 A.9. requires drivers or attendants to accomplish the required training within 90 days after beginning work and requires the provider to keep copies of course certificates in its files. The Southwest RDC

stated that the 90 days was too restrictive. (Ex. W, p. 3) The MAHCF suggested that DOT should keep a list of who has completed courses so that providers would be able to verify this. (Tr. 133) The subsection is needed and reasonable as proposed.

14 MCAR § 1.7009 B. Standards for Operation of Vehicles - Equipment

43. Section 1.7009 B.1.b. sets out the items to be included an emergency first aid kit. The STPA suggested adding sickness bags and hard candy or Karo syrup. (Tr. 106; Ex. M, p. 4) The Department may consider this suggestion. no change

44. Section 1.7009 B.1.e. as originally proposed requires that if a vehicle carries children who weigh less than 50 pounds there shall be available a child restraint system meeting federal requirements. The Department announced at the hearing that it wished to amend the rule from 50 pounds to 40 pounds. It suggested a similar amendment to Section 1.7009 C.5. (Ex. 29, p. 2) This requirement drew a good deal of comment. The Greater Minneapolis Day Care Association noted that a current DPW rule and the federal requirement mandated child restraint systems for children 2-1/2 years old or under. They stated that the restraint seats cost $40 to $60, and that the effect of the proposed rule is to discriminate against poor families since transportation would have to be discontinued at day care centers in "economically disadvantaged" areas due to rising costs. They supported changing the rule to provide restraint systems for children 2-1/2 years or younger. (Ex. H.) The Minnesota Association for the Education of Young Children asked for the same amendment since most child care programs cannot afford expensive seats and seat belts would be safe. (Ex. X) The Northside Settlement Services Child Care Program said they would have to purchase extra seats and make additional trips which would be lengthier and that they had no money to make the additional purchases. (Ex. Y) Sally Goldberg agreed that the purchase of $50 special seats for 2-1/2 to five year olds who weigh less than 40 pounds is economically unfeasible. (Ex. V) St. Cloud MTC and the Parent Child Center did not see the facts as supporting the need for a child restraint system. (Ex. O, pp. 9-10; Tr. 189; Ex. U) so amended p. 11, 13

45. The Department stated that child restraint devices can prevent nearly 90% of deaths and 80% of injuries to children in automobile accidents and that a child can slip under a standard safety belt in a crash or a sudden stop and a diagonal shoulder harness can position itself across a child's neck or face. (Ex. 7, pp. 38-39) The Minnesota Department of Health stated that children weighing less than 40 pounds, especially those younger than 12 months, who were not appropriately restrained during a collision have the greatest mortality rates of all children involved in comparable automobile collisions. The Department of Health said that the cost of the devices was between $30 and $40 apiece, but that the reduction in risk has been shown to be great. (Ex. DD, pp. 1-2) The rule, as amended, was supported by Project Child Safe of the Minnesota Safety Council, which stated that child care seats are the best available protection. (Ex. FF)

46. DOT Exhibit 18, an "Update" bulletin issued by the Minnesota Medical Association, indicates that seat belts and harnesses are not suitable for children under four. DOT Exhibit 19, an article entitled "Big Protection for

Little People" appearing in the Spring, 1979 issue of Family Safety Magazine states that "as a rule of thumb, children four years old or older who weigh at least 40 pounds can begin to use adult seat belts". (Ex. 19, p. 25) The Department has presented sufficient facts to establish the need for and reasonableness of its proposed rule as amended. The change in the number of pounds of the child does not create a rule which is substantially different from that which was published. Although the Department has satisfied the minimum evidentiary requirements of Chapter 15 in regard to this proposed rule, it should carefully reconsider the rule in light of the comments made in this rule hearing proceeding relative to the costs which may be imposed upon day care centers and other providers which might result in a lessening of the transportation services available to their clients.

no change

47. Section 1.7009 B.1.g. requires each vehicle to carry an ice scraper and a blanket. The STPA suggested adding salt or sand and a shovel. (Tr. 108; Ex. M, p. 4) The Rochester School Bus Service suggested that one blanket would not help much. (Ex. Q, p. 3) The subsection is needed and reasonable as proposed.

48. Section 1.7009 B.4. requires vehicles with wheelchair lifts to have adjustable or removable railings which are 36 inches high on two sides of the lift. The MTC suggested that one railing be permitted on the lifts and an attendant be permitted to ride with the passenger in the lift. (Tr. 170; Ex. I, p. 2) The MAHCF suggested that written procedures in regard to the safe operation of the lift should be an alternative to the equipment specified. (Tr. 135; Ex. EE, p. 9) In its post-hearing comments, DOT proposed to amend the subsection to provide that only one railing on one side of the lift is required. (Ex. 29, p. 3) So amended, the proposed rule subsection is needed and reasonable. The change does not make the proposed subsection substantially different from that as published in the State Register.

so amended p.11

14 MCAR § 1.7009 C. Standards of Operation of Vehicles - Operation

49. Section 1.7009 C.2. sets out the items to be inspected daily on the vehicle. The SWRDC suggested eliminating the daily inspection and putting this information into a weekly report. (Ex. W, p. 3) The subsection is needed and reasonable as proposed.

50. Section 1.7009 C.3. sets out the items to be inspected on the vehicle weekly and to be recorded in the driver's log book. The Rochester School Bus Service said keeping records was not beneficial. (Ex. Q, p. 3) The MAHCF expressed uncertainty as to what type of documentation would be necessary under this subsection. As a matter of drafting, the Disabilities Council suggested deleting the word "a" from the second line. (Tr. 78; Ex. E, p. 2) The subsection is needed and reasonable as proposed.

so deleted p.12

51. Section 1.7009 C.5., as mentioned above, was amended at the hearing by DOT to change the weight from 50 pounds to 40 pounds. So amended, the proposed rule subsection is needed and reasonable and not substantially different from the subsection as published.

so amended p.13

14 MCAR § 1.7010 Insurance

52. Section 1.7010 A. sets out the minimum insurance coverages for each

vehicle. The MAHCF suggested adding language to make it clear that self insurance pursuant to Minn. Stat. § 65B.48, subd. 3 is an alternative to the other requirements in the subsection. (Ex. EE, p. 10) Although the subsection is needed and reasonable as proposed, the suggestion would seem to clarify DOT's intention and should be considered by the Department. no change

53. In regard to Section 1.7010 B., the SWRDC again suggested that the applicant be allowed to mail the insurance certificate himself. (Ex. W, p. 3) The Department may consider the suggestion. no change

54. In regard to Section 1.7010 C., relating to self insurance, the SWRDC suggested that the word "shall" be changed to "may" to avoid the implication that self insurance is mandatory. (Ex. W, p. 3) The Department may consider whether the phrasing in the subsection can be clarified. so changed p. 15.

14 MCAR § 1.7011 Record

55. Section 1.7011 A.1.d. requires the provider to document in its file whether the driver's license has been revoked, suspended or cancelled within three years prior to application. The MAHCF questioned the need for this requirement since the Department of Public Safety requires a request in writing and a $2 fee for this information. The MAHCF suggested that the driver's certification as to these matters would be sufficient. (Tr. 138; Ex. EE, p. 10) Although it is needed and reasonable to have this information in the provider's file, the Department should carefully consider whether or not the driver's certification would suffice so as to avoid the extra burden on the provider.

56. Section 1.7011 A.6. requires a record of all insurance claims arising from the operation of the vehicle. The MAHCF suggested limiting this language to the claims which are known to the provider. (Tr. 138; Ex. EE, p. 10) The Department may consider the suggestion.

14 MCAR § 1.7012 Certification of Training Courses

57. Section 1.7012 C.1. specifies what persons may teach a first aid course. The MAHCF supported inclusion of a "physician's assistant" and a general clause for other health professionals such as nursing home administrators. In its post-hearing comments, DOT included the words "a physician's assistant" in the rule subsection. So amended, the subsection is needed and reasonable and does not present a substantially different rule from that published in the State Register. so amended p. 17

58. Section 1.7012 C.2. sets out who may teach passenger assistance training. The MTC suggested that training be allowed to be taught by other than health care professionals. (Tr. 169; Ex. I, p. 2) DOT may consider this suggestion. The subsection is needed and reasonable as proposed. no change

14 MCAR § 1.7013 Variance

59. Section 1.7013 A.2. requires the Commissioner to set forth in writing his reasons for granting or denying a variance. Senator Clarence Purfeerst, Chairman of the Senate Transportation Committee, and Senator Conrad Vega, Vice Chairman of the Senate Transportation Committee, stated that a time limit for the Commissioner to either grant or deny the variance, such as 30 days, should

be inserted into the rule. They also suggested that some recourse in the event of a denial should be written in the rule and suggested a procedure similar to Minn. Laws 1979, Ch. 167, § 2, subd. 3a, which provides that if a variance is denied without a hearing, the applicant may request a contested case hearing within 30 days of receiving notice of the denial. Although the rule subsection cannot be said to be arbitrary as written, the Senators' suggestion would strengthen the rule. It is likely that the denial of a variance would give rise to a contested case hearing under Chapter 15 even though unstated in the rule.

so strengthened p. 18

60. At the hearing, the Department announced that it intended to change Section 1.7013 4. and 5. to Section 1.7013 B. and C. so as to better organize the rule. This change would not render the rule substantially different.

changed

Suggestions for Additional Rules

61. A number of participants in the rule hearing procedure supported inclusion in the rules of a requirement for a two-way radio in each vehicle to permit help to be summoned. The cost was estimated at $70 to $100 for a radio. This requirement was supported by the Arrowhead Transit System (Tr. 64), the Council on Developmental Disabilities (Tr. 78; Ex. E, p. 2), the State Council for the Handicapped (Tr. 81; Ex. L, p. 1), the Minnesota Board on Aging (Tr. 86; Ex. G), the STPA (Tr. 108; Ex. M, p. 4) and the Arrowhead Regional Development Commission (Ex. S). The St. Paul Red Cross opposed increasing costs by adding the radio requirement since small agencies are not able to pay for it. (Tr. 100) The MAHCF also stated that radios are costly and ineffective in rural areas. They believe that a standard citizens band radio may also be ineffective in metropolitan areas and observed that effective FM equipment could cost from $1,500 to $2,000 per unit. (Tr. 134; Ex. EE, p. 9) The idea of requiring two-way communication did exist in some early drafts of the proposed rules, but was deleted after discussion. To include such a requirement at this point in the rule hearing proceeding would likely render the rule substantially different from that as published because of the cost factor and the dispute as to the need for and effectiveness of the suggested equipment. DOT should consider this matter for a subsequent rule proceeding.

62. A number of the participants in the rule proceeding also supported either four or eight hours of advanced driver's training beyond that required in the proposed rules. The Arrowhead Transit System (Tr. 64-65), the Arrowhead Regional Development Commission (Ex. S), the Council on Developmental Disabilities (Tr. 79; Ex. E, p. 2), the State Council for the Handicapped (Tr. 83; Ex. L, p. 1) and the Minnesota Board on Aging (Tr. 86; Ex. G) all supported such training. The Center for Driver Education and Safety located at St. Cloud State University stated that the cost would be $25 to $75 per driver to provide the training. (Tr. 67-75) The Board on Aging estimated the cost at $197 per person for one day in St. Cloud. (Tr. 86; Ex. L, p. 2) The St. Paul Area Red Cross opposed such a requirement since small agencies cannot afford it. (Tr. 100) Because of the cost involved in this requirement, it is likely that addition of such a requirement at this point would constitute a

substantial change in the proposed rules. DOT should consider whether or not this requirement should be added in a future rule hearing proceeding.

Based upon the foregoing Findings of Fact, the Hearing Examiner makes the following:

CONCLUSIONS

1. That the Department of Transportation gave proper notice of the hearing in this matter.

2. That the Department has met the procedural requirements of Minn. Stat. § 15.0412, subd. 4-4f (1980).

3. That the Department has demonstrated its statutory authority to adopt the proposed rules within the meaning of Minn. Stat. § 15.0412, subd. 4c (1980), and has complied with all other substantive requirements of law or rule.

4. That the Department has demonstrated the need for and reasonableness of the proposed rules by an affirmative presentation of facts in the record within the meaning of Minn. Stat. § 15.0412, subd. 4c (1980).

5. That the additions and amendments suggested by the Department to the rules which were proposed after publication of the rules in the State Register are not substantially different from the rules as published in the State Register within the meaning of Minn. Stat. § 15.0412, subd. 4d (1980).

6. That any Findings which might properly be termed Conclusions and any Conclusions which might properly be termed Findings are hereby adopted as such.

7. That a finding of need and reasonableness in regard to any particular rule subsection should not preclude or discourage the Department from further modification of the rules based upon an examination of the public comments, provided that no substantial change is made from the rules as originally published, and provided that the rule finally adopted is based upon facts appearing in this rule hearing record.

Based upon the foregoing Conclusions, the Hearing Examiner makes the following:

RECOMMENDATION

It is hereby recommended that the proposed rules be adopted consistent with the Findings and Conclusions made above.

Dated: January 8 , 1981.

George A. Beck

GEORGE A. BECK
State Hearing Examiner

STATE OF MINNESOTA)
(ss.
COUNTY OF RAMSEY)

DOT-81-007-GB

AFFIDAVIT OF SERVICE

SUSAN WOJCIK, being first duly sworn, deposes and says that on the 8th day of January, 1981, at the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Report of the Hearing Examiner

unstamped, by placing in the designated tray to be collected by messenger for delivery to the central mailing station as required by Minn. Stat. § 16.54 (1974), a true and correct copy thereof on all persons at the addresses shown on the attached mailing list.

Susan Wojcik

Subscribed and sworn to before me this
8th day of January, 1981.

Sandra A. Haven

SANDRA A. HAVEN
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
MY COMM. EXP. 10-25-1983

Ms. Betsy Parker
Operating Standards Coordinator
Department of Transportation
Room 818, Transportation Building
Saint Paul, Minnesota 55155

March 31, 1981

RECEIVED
APR 6 1981
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

Attorney General, Warren Spannus
G-25 State Administration Building
50 Sherburne Avenue
St. Paul, Minnesota 55155

Dear Mr. Spannus:

I am writing in concern over the matter of the proposed adoption of rules of the Department of Transportation relating to operating standards for special transportation service. The child care community is very upset over the provision of this proposed rule regarding car seats (restraint systems) for preschool children. After testimony and correspondence in the hearing process this provision is still impossible financially for child care programs.

The proposed rule requires car seats for children 40 pounds and under. According to health statistics, children of up to 4 1/2 years are in this weight category, especially inner city children who tend to be slightly under weight in comparison to their suburban and rural counterparts. For child care programs, who are on shoestring budgets already, to purchase car seats for affected populations of children (over 350 in Hennepin County alone) is financially impossible. Parents of the low-income children will have to drop child care without the transporation and will be forced to leave their children in unlicensed or less than adequate care arrangements. This is a most serious impact to these young children at risk.

We urge you to strike the requirement as written and insert language using ages of children 2 1/2 years or younger which would be consistent with day care regulations of this state. This change is the only reasonable alternative to risking the child care arrangements of hundreds of children across the state.

Please feel free to contact me for further information. I would appreciate your response concerning this matter.

Sincerely,

Sue Harrington

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ATTORNEY GENERAL
102 STATE CAPITOL
ST. PAUL, MINN. 55155

Sue Harrington, Coordinator
Governmental Affairs
GREATER MINNEAPOLIS DAY CARE ASSOCIATION

SH:jh

Greater Minneapolis Day Care Association

Dale Anderson, Executive Director • 111 East Franklin Avenue • Minneapolis, MN 55404 • 612/871-3103

D·A·R·T·S

Dakota Area Referral and Transportation for Seniors, inc.

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J. Robert Stassen

Executive Director
Richard Graham

March 26, 1981

Mr. J. Anderson
Office of the Attorney General
G-25 State Administration Bldg.
50 Sherburne Avenue
St. Paul, Minnesota 55155

In Re: MnDot Proposed Adoption of Rules relating to Operating Standards for Special Transportation Service.

Dear Sir:

D.A.R.T.S. is a not-for-profit corporation providing special transportation service to the elderly and handicapped residents of Dakota County in addition to other support services. As a special transportation provider, D.A.R.T.S. would like to comment on one section of the proposed regulations but on the main, support the letter and intent of these regulations.

The section in question is MCAR 1.7009 Standards for Operation of Vehicles, Subsection C. 5 Operations.

D.A.R.T.S. does not wish to disagree with the need for the usage of seat belts by drivers and passengers. However, the mandatory requirement of usage of seat belts we feel is not appropriate, nor legal, for the following reasons.

First, many of our passengers are unable to use the seat belt due to physical size and condition. Second, many retarded adults regardless of instruction on usage will not tolerate the belts, and third, the drivers should not be responsible for anyone not remaining in or using the seat belt. (The requirement of drivers to use the belts should remain as is). The driver cannot be on constant watch to see if everyone is using the belts. In addition, what would the legal ramifications be if an accident occurred and a passenger not using the seat belt were injured? Who would be responsible?

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ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

125 Sixth Avenue North — South Saint Paul, Minnesota 55075
(612) 455-1560 (612) 455-1603

Again, D.A.R.T.S. does not disagree with the need to have passenger and drivers use their seat belts, but it is felt that a statutory requirement of usage is not feasible. It would be our recommendation that language be used to encourage the usage of seat belts short of a mandatory requirement.

Thank you for the opportunity to comment and explain our position on these regulations.

Sincerely,

Mark C. Hoisser
Assistant Director

MCH:ri

October 28, 1980

State of Minnesota

County of Ramsey

Before the Minnesota

Commissioner of Transportation

In the Matter of Proposed Rules
Relating to Operating Standards
for Special Transportation Service

Statement of Need and
Reasonableness

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October 28, 1980

State of Minnesota

County of Ramsey

Before the Minnesota

Commissioner of Transportation

In the Matter of Proposed Rules
Relating to Operating Standards
for Special Transportation Service

Statement of Need and
Reasonableness

The Minnesota Commissioner of Transportation (hereinafter "Commissioner") pursuant to Minn. Stat. § 15.0412, hereby presents facts establishing the need for and reasonableness of the proposed rules relating to Operating Standards for special transportation services and justification for their adoption.

The facts which establish the need for, and reasonableness of the rules are presented in four categories:

A. Statutory Authority

B. General Statement of Need

C. General Statement of Reasonableness

D. Rule by Rule Statement of Need and Reasonableness

A. Statutory Authority

The above captioned rules are newly proposed rules of the Commissioner. The statutory authority of the Commissioner for adoption of these rules is Minn. Stat., 1979 Supp., § 174.30 subd. 2 and subd. 5.

Minn. Stat., 1979 Supp., § 174.30, subd. 2, requires the Commissioner to adopt standards for the operation of vehicles used to provide special transportation service, which are reasonably necessary to protect the health and safety of the individuals using that service. Subdivision 2 provides that the standards adopted may include but are not limited to:

A. qualifications of drivers and attendants including driver training requirements;

B. safety equipment in vehicles;

C. general requirements concerning the maintenance of the standard equipment in the vehicles; and

D. minimum insurance requirements.

Minn. Stat. § 174.30, subd. 4 requires the Commissioner of Transportation to issue an annual certificate of compliance for each vehicle which complies with the standards. The Commissioner must provide procedures for determining compliance and issuing the certificates. Subdivision 4 provides that the procedures may include an inspection of the vehicles and an examination of the drivers.

Subdivision 5 requires that the standards and the procedures be adopted by rule in accordance with Minn. Stat. Ch. 15. It also requires that the Commissioner, prior to proposing the rules, make available to the standing committees on transportation in both houses of the Legislature, a draft of the rules and a proposed budget for the necessary enforcement activities of the Department. The law requires that the Commissioner review the draft

rules, the enforcement plan and the proposed budget with the Interagency Task Force on Coordination of Special Transportation Service (hereinafter, Interagency Task Force).

B. General Statement of Need

These Operating Standards are necessary because the Legislature has directed the Minnesota Department of Transportation (hereinafter "Mn/DOT") to write Operating Standards for special transportation service vehicles. At present in Minnesota, there is no regulation of vehicles which transport the elderly and handicapped other than the general traffic and motor vehicle law in Minn. Stat. Ch. 169, the wheelchair securement device law and the regulation of life support transportation services. Life support transportation services provide transportation and treatment and are regulated by the Minnesota Department of Health. The Operating Standards will fill this gap by regulating transportation provided to elderly, handicapped, disabled, and economically disadvantaged persons except for transportation which is provided in certain vehicles. The transportation which is exempt is that which is provided by regular route common carriers, taxis, private automobiles driven by volunteers, school buses, and licensed emergency vehicles (now known as life support transportation).

These rules are needed because, as the amount of transportation available to elderly, handicapped, disabled and economically disadvantaged persons has increased over the last few years, the exposure to risks related to motor vehicle use has risen for this population. According to a study conducted by the Minnesota Department of Economic Security,[1] approximately

14.5% of the population or one in seven Minnesotans is functionally disabled but not institutionalized. The authors of the study estimated that there are 575,000 persons in Minnesota who have a limitation of capacity or inability to perform the activities of living necessary for people to carry out their roles in society. Only half of these people can travel in their own automobiles. There are about 470,000 Minnesotans over the age of 65.[2] Some of the persons no longer provide their own transportation. Other users of special transportation service include school children in special education programs, economically disadvantaged children and adults involved with Head Start, Community Action Programs and Senior Nutrition Programs, residents of group homes, nursing homes, skilled nursing facilities, and recipients of services provided by over 200 nonprofit social service agencies. None of this transportation is regulated beyond the universal requirements that the driver possess a driver's license and that the vehicle comply with the law relating to private passenger vehicles.

A survey conducted in September, 1980, by the Minnesota Department of Transportation indicates that there are roughly 1,000 agencies, organizations and services providing special transportation services to the elderly, handicapped and economically disadvantaged.

At present it is very difficult to obtain data which indicates the degree of regulation needed for this kind of transportation. The Minnesota Department of Public Safety annual publication entitled "Motor Vehicle Crash Facts" contains no separate category for vehicles which could be loosely classified as social service or special transportation service

vehicles. Because special transportation is provided in many different kinds of vehicles, passenger automobiles, station wagons, nine, ten, twelve or sixteen passenger vans, small buses, school buses and taxis, it is impossible to establish an accident rate for these vehicles according to type of service provided. No accident data is collected on motor vehicles according to the kind of service offered. Motor vehicle statistics are compiled for particular kinds of motor vehicles not for the kinds of services which the vehicles are used to provide. In addition, vehicles which are publicly owned and licensed are not included in the statistics. Many of the vehicles used to provide special transportation service are publicly owned vehicles.

The insurance industry, which is usually a good source of information on accidents and claims, has not kept statistics on special transportation vehicles because it was not until 1979 that the category of Social Service Automobile was recognized as the basis for a special rate classification.[3] Formerly all special transportation service was rated for insurance purposes as a commercial risk and on the basis of the vehicle type that was used rather than on the basis of the kind of service provided. Therefore, it has been extremely difficult to obtain data which indicates the kinds of accidents that these vehicles are involved in and whether there have been fatalities.

These vehicles do have accidents which result in passenger injuries. Accident information was obtained from Mn/DOT and the Metropolitan Transit Commission's Project Mobility which provides service to handicapped persons.

In January, 1980, Mn/DOT surveyed each of the fifty-four transit systems receiving state assistance. Of thirty-one systems which responded, sixteen reported accidents or claims during the preceding three years. Almost all the accidents involved property damage claims under $600.00. Four reported claims for personal injuries. The personal injuries reported were due to passengers falling in the vehicle or being thrown forward as a result of a sudden stop.

The information which Mn/DOT has obtained indicates that there is room for improvement, particularly in the area of passenger assistance but it does not indicate a need for a rigorous inspection program. It suggests a need for minimal training of drivers and assuring that minimum safety equipment is being carried in the vehicles. In addition, some operational requirements are necessary.

Because this is a new area of regulation there is a need for uniform rules to insure the safety of the passengers. These Operating Standards provide such minimum uniform standards.

In addition, these rules are necessary to fill a gap which was created when the Legislature amended the law which authorized the Department of Health to license vehicles used for medically related transportation.

In 1978, the Department of Health licensed all providers of transportation for medical purposes, both emergency and non-emergency (trips to doctor's appointments by persons who couldn't use regular transportation). Only transportation services which used vehicles defined as ambulances were

licensed and enrolled as transportation providers by the Department of Public Welfare (DPW) for reimbursement for medically related trips.

In 1978, the Legislature amended Minn. Stat. § 144.801 to restrict the Department of Health to licensing transportation defined as life support transportation. Vehicles originally licensed as emergency ambulances were redesignated as life support transportation services and the Health Department stopped licensing vehicles which provided non-life support, (non-emergency) medically related transportation. Providers of life support transportation service continued to be licensed by the Department of Health and enrolled as providers by DPW.

However, new providers of non-life support transportation (previously called non-emergency ambulance service and now called special transportation service) must now be regulated and issued a certificate of compliance under Minn. Stat. § 174.30 by Mn/DOT. Then, if they are certified by Mn/DOT, they may be enrolled by DPW as "recognized providers of transportation services" under Minn. Stat. § 256B.04, Subd. 12. A "recognized provider of transportation services" is an operator of special transportation service that has been issued a current certificate of compliance with the Operating Standards or, if those standards do not apply to the operator, that DPW finds is able to provide the required transportation in a safe and reliable manner.

Therefore, the Department of Transportation must adopt Operating Standards and issue certificates of compliance so that new providers of medically related transportation may be enrolled and reimbursed by DPW.

C. General Statement of Reasonableness

These rules are reasonable because they require all providers to meet uniform standards, yet provide flexibility to deal with unique situations through a procedure allowing the granting of variances.

The rules allow providers additional time to train new drivers and allow providers to establish courses to meet the training requirements. The cost of compliance with these rules will not be great. None of the required safety equipment is costly and driver training costs will also be minimal once training materials have been developed.

Mn/DOT intends to supply the forms for applications, a list of sources for training courses and a provider's manual to assist special transportation providers in complying with the rules.

The procedure which was used to draft these rules helps to establish their reasonableness. There has been extensive public involvement in the development of these rules. Eight of the eleven drafts were reviewed by the Interagency Task Force and discussed at its meetings. Many of the members' comments resulted in revisions in the drafts. Approximately seventy persons provided written comments in response to Mn/DOT's publication and mailing of a Notice of Intent to Solicit Public Opinion in April, 1980. Approximately 135 persons were added to a mailing list to review drafts of the proposed Standards. Many of these persons telephoned their comments and suggestions.

D. Rule by Rule Statement of Need and Reasonableness

14 MCAR § 1.7001 Scope.

14 MCAR § 1.7001 A.

The scope section gives notice to the public of the inclusive nature of the term, special transportation service. The Interagency Task Force discussed eight drafts of the proposed rules, and in the course of those discussions and in a review of the comments received by the Department in response to the notice of proposed rulemaking, it became clear that there is widespread confusion about the kinds of services which will be subject to these rules. Therefore, in order to make it easier for regulated persons to understand and to comply with the rules and to describe to the public, to social service organizations and to governmental agencies the kind of transportation which comprises special transportation service, the definition in the statute has been restated. The use of this definition is crucial to the ability of transportation providers to understand the scope of the rules so that they will know whether or not they must comply with the Operating Standards.

14 MCAR § 1.7001 B.

Subsection B lists five kinds of vehicles to which the Operating Standards will not apply. These five categories of vehicles are described in the statute. They are listed in the Operating Standards using the statutory language because the repetition is crucial to the ability of transportation

providers to understand exactly which vehicles will not be required to meet the requirements of the Operating Standards. Minn. Stat. § 174.29, which established the Interagency Task Force, provided that any kind of transportation furnished to the elderly, handicapped, disabled or economically disadvantaged was special transportation. The Legislature, in drafting Minn. Stat. § 174.30, determined that for purposes of regulation under the Operating Standards, five kinds of vehicles, four of which are subject to regulation by other laws, would be excluded from regulation. Because numerous questions were raised about the scope of the regulation, it is set forth in the Standards.

14 MCAR § 1.7002 Authority

This section states the specific authority under which the Department proposes these rules. It is reasonable to state this because it informs the public that the Legislature directed Mn/DOT to write these rules.

14 MCAR § 1.7003 Definitions

A. "Ambulance" (14 MCAR § 1.7003 A.) is defined so that it has the meaning given to it in Minn. Stat. § 144.801, subd. 2. It is reasonable to define it this way because some persons who provide special transportation service also provide life support transportation service using the same vehicle, an ambulance. This definition promotes consistent usage.

B. "Commissioner" (14 MCAR § 1.7003 B.) means the Minnesota Commissioner of Transportation. It is defined for the convenience of people using the rules to simplify the reference to the Commissioner of Transportation.

C. "Common Carrier" (14 MCAR § 1.7003 C.) is defined so that it has the meaning given to it in the statutes. This definition is used in the authorizing legislation and is used here for consistency.

D. "Disabled" (14 MCAR § 1.7003 D.) is defined to mean handicapped. The members of the Interagency Task Force felt that there was no functional difference between the words disabled and handicapped and that it was appropriate to define the words synonymously.

E. "Economically disadvantaged" (14 MCAR § 1.7003 E.) is defined broadly so that providers who receive funds from DPW will know that they must comply with the rules if they transport economically disadvantaged passengers who are unable to use regular means of transportation. In some cases, the Operating Standards will provide the criteria by which the Department of Public Welfare determines whether to enroll and reimburse operators of special transportation for providing medically related transportation. This definition makes it clear to transportation providers that all vehicles which transport public assistance recipients who are unable to use regular transportation are subject to the Operating Standards.

F. "Elderly" (14 MCAR § 1.7003 F.) is defined to mean persons aged fifty-five and older because many groups which provide transportation to the elderly select different ages as cutoff points for determining which people are eligible for their services. Fifty-five was found to be the lowest age for defining elderly among the various groups who provide transportation and other services. Choosing the lowest and most inclusive age limit imposes no additional burden on transportation providers.

G. "Handicapped" (14 MCAR § 1.7003G.) is a modification of the definition used in the 1973 Rehabilitation Act (29 U.S.C. 794) and the regulations in 49 C.F.R. 27. The Interagency Task Force recommended using the broadest definition possible. This definition is a functional one.

H. "Major life activities" (14 MCAR § 1.7003 H.) is defined to further clarify the meaning of "handicapped".

I. "Motor vehicle" (14 MCAR § 1.7003 I.) is defined so that it has the meaning given to it in the statutes.

J. "Municipality" (14 MCAR § 1.7003 J.) is defined so that it has the meaning given to it in the statutes.

K. "Person" (14 MCAR § 1.7003 K.) has been defined to include every natural person or kind of entity that might operate a special transportation service vehicle.

L. "Physical or mental impairment" (14 MCAR § 1.7003 L.) is defined to further clarify the meaning of "handicapped".

M. "Provider" (14 MCAR § 1.7003 M.) means any public or private person who operates special transportation service vehicles. The definition of "provider" as one who operates special transportation service vehicles is a reasonable one because it is a functional definition. Under the Operating Standards the provider is responsible for assuring that each vehicle is certified and that each driver meets the requirements set forth in the Operating Standards. The person who operates, that is, maintains the vehicles, hires the drivers and secures the insurance is in the best position to see that the vehicles are certified in compliance with the Operating Standards. Therefore, provider has been defined as the person who operates the vehicles as opposed to the person or agency who supplies or arranges transportation for clients. In many cases, a social service agency or organization contracts for special transportation service with a transportation provider. It is reasonable to define provider as the person who operates the vehicle, and to require that person to be responsible for certifying the vehicle.

N. "Regular basis" (14 MCAR § 1.7003 N.) is used in the legislation authorizing the Operating Standards but it is not defined. "Regular basis" must be specifically defined so that providers of transportation will know whether they are subject to the Operating Standards. Mn/DOT staff have had many conversations with representatives of social service agencies who as part of their service to clients, transport them in agency or employee owned passenger automobiles on a sporadic or infrequent basis. Most agencies with social workers and outreach workers who provide a minimal amount of transportation, seem to provide from two or three to a dozen trips a month. After discussions with employees of county welfare departments, Veteran's Service Officers and participants in the American Red Cross coordinated transportation program, it was determined that twelve round trips a month would be a reasonable cut-off point. Mn/DOT determined that it was reasonable to assume that the Legislature used the phrase "regular basis" because it felt that as the number of trips and passengers increased, the risk increased and therefore the need for regulation increased. The Interagency Task Force agreed that it was reasonable to choose a number which represented a regular basis, and exclude from regulation those who provided fewer than that number of trips in a given period of time. The number twelve was selected as the upper limit, keeping in mind that the statute requires that the Department adopt only the minimum standards necessary to protect the health and safety of the passengers. Because questions arose about the number of passengers who could be carried on any given round trip the number of passengers was quantified to eliminate any confusion or uncertainty about the limits of the term "regular basis". Because many agencies have vans which carry six to twelve passengers at a time and most social service employees carry only one or two clients in their cars, transporting thirty passengers was selected as a rough equivalent of making twelve round trips per month.

O. "School bus" (14 MCAR § 1.7003 O.) is defined so that it has the meaning given to it in the statutes.

P. "Semi-ambulatory" (14 MCAR § 1.7003 P.) is necessary to define a group of persons who require special provisions under the Operating Standards. The definition is reasonable because it is a commonly accepted lay definition of the word "semi-ambulatory." It includes persons who can walk only with the aid of an assistive device.

Q. "Special transportation service" (14 MCAR § 1.7003 Q.) is a new term in the statutes. Because the concept of special transportation service is new, repeating the definition from the statute is crucial to the ability of regulated persons to understand the rules.

R. "State" (14 MCAR § 1.7003 R.) is defined so that it has the meaning given to it in the statutes.

S. "Variance" (14 MCAR § 1.7003 S.) is necessary to explain the concept of a variance. It is reasonable because it is consistent with the commonly accepted meaning of the word.

T. "Vehicle" (14 MCAR § 1.7003 T.) is necessary because it allows the use of that shorter term in place of "special transportation service vehicle" and simplifies the reference.

14 MCAR § 1.7004 Compliance.

14 MCAR § 1.7004 A.

Minn. Stat. § 174.30, subd. 2 states that the Commissioner shall adopt standards for the operation of vehicles used to provide special transportation

which are reasonably necessary to protect the health and safety of individuals using that service.

The law also provides that a certificate of compliance shall be issued for each vehicle which meets the standards adopted under Minn. Stat. § 174.30. Therefore it is reasonable and necessary to prohibit the provision of special transportation service without a current certificate because the Commissioner has been authorized to write Operating Standards regulating the items set out in the Standards. It is necessary to require that the vehicle comply with the standards before the certificate is issued because the law requires it. The requirement that the certificate of compliance be issued to a provider who transports an occupied wheelchair only if the vehicle has been issued a certificate of compliance by the Commissioner of Public Safety is necessary because it gives notice to persons who transport occupied wheelchairs that there is an additional law with which they must comply. The law which authorizes the Operating Standards requires that the certificate of compliance for an approved wheelchair securement device be obtained before the Operating Standards certificate is issued by the Commissioner. This section is reasonable because it gives notice to providers of that requirement.

14 MCAR §1.7004 B.

Subsection B provides that no special transportation service provider shall offer to provide life support transportation service unless the service is licensed as required by the law regulating such service. This section gives notice to special transportation service providers, some of whom were

licensed as ambulance operators under the prior Health Department law, and some of whom now provide both kinds of service, that they may not provide both life support and special transportation service unless they are licensed under both laws. Comments received by the Health Department and Mn/DOT and discussions which occurred during the review of the Operating Standards by the Interagency Task Force, indicate that there is a good deal of confusion about the regulation of life support transportation and special transportation service where both kinds of service are provided using one vehicle. Therefore, although this Department has no authority to regulate life support transportation service, this section is included in the Department's Operating Standards to give special transportation service providers notice that if they wish to expand their service beyond special transportation service to include life support transportation service, they must comply with additional requirements.

14 MCAR § 1.7005 Certification

14 MCAR § 1.7005 A.

Subsection A tells providers how to apply for a certificate of compliance. It tells them that the Department supplies the necessary forms, how they can obtain the forms and where the forms should be mailed.

14 MCAR § 1.7005 B.

Subsection B specifies the information which each applicant must submit to the Commissioner. Each applicant will be required to submit two forms to

the Commissioner; a provider application form and a certificate of insurance which will actually be mailed by the provider's insurer. The provider must indicate whether the application is new or a renewal. This is necessary because it is for the administrative convenience of the Department and will only require checking a box on the application form. If the application is a renewal there will be information on file including the certificate of insurance. A new certificate of insurance will not be required for renewals.

Subsection B.1.

The name, address, telephone number and service area of the provider are necessary so that the Department can identify the provider. Requesting information about the type of service provided is reasonable because it enables the Department to identify the kind of service which is being offered so that service which is exempt from regulation can be identified. It is reasonable to require the provider to specify the category of passengers served because special transportation service is defined in the law and the Operating Standards as that which serves four categories of passengers. Obtaining this information will enable the Department to confirm that the provider should be applying for a certificate. The provider must list each vehicle which is operated so that the vehicle can be identified on the certificate which will be issued. Information about seating capacity is necessary because it enables the Department to determine whether the driver must have a Class B license.

It is necessary to require each provider to complete a checklist showing whether each vehicle carries the required safety equipment as no pre-

certification inspection will be required. This will enable the Department, on the basis of the provider's representation, to determine whether the vehicle complies with the requirements of the Operating Standards. Because Minn. Stat. § 174.30, subd. 4 provides that the Commissioner may not issue a certificate of compliance to vehicles carrying occupied wheelchairs until the wheelchair securement device has been certified by the Commissioner of Public Safety, it is necessary to require the provider to furnish the number of the wheelchair securement device certificate of approval.

Subsection B.2.

Subsection B.2. requires that each applicant furnish a certificate of insurance. A certificate of insurance is a standard device used by lending institutions, school districts, businesses and governmental agencies to ascertain that a person who is subject to certain regulations or who is about to enter into a contract has insurance which is sufficient to meet the needs or requirements of the person to whom the certificate is furnished. It is the insurance company's statement th c it provides the stated coverage to the insured. When the Operating standards were being written, eleven insurance companies who routinely insure special transportation providers were contacted to determine whether they are willing to furnish a certificate of insurance for their clients. Each of the eleven representatives contacted confirmed that a certificate of insurance could be obtained by an insured by calling the agent and requesting that it be mailed. Each representative said that his or her company would mail the certificate wherever the insured requested at no charge.

This requirement is necessary so that the Department can be sure that each provider has in effect, a policy which satisfies the requirements of the Operating Standards. It is a reasonable requirement because it is easily complied with and is a customary business practice.

14 MCAR § 1.7005 C.

Subsection C requires that the Commissioner issue a certificate of compliance when the applicant has met all the requirements of the Standards.

14 MCAR § 1.7005 D.

The requirement that all applications be processed and a certificate issued or denied in writing within 30 days of receipt of the complete application is necessary and reasonable because 30 days is a reasonable length of time for the Commissioner's staff to take action on the application. It also provides a reliable time frame for the provider. The requirement that the certificate be issued or denied in writing gives the provider a written record of the action that was taken on its application. If the certificate is denied, the applicant has a written explanation of the reason for the denial, and it may then take action to correct the problem which led to the denial. In addition, it gives the Commissioner a written record to retain.

14 MCAR § 1.7005 E.

The requirement in Subsection E that a certificate be granted which lists each vehicle and shows the expiration date is reasonable because it makes it easier to keep track of each providers' vehicles by listing them on the

same certificate. Issuing the provider a certificate with the expiration date will enable it to comply with the renewal requirement more easily.

14 MCAR § 1.7006 F.

If the Commissioner maintains a record of all certificates, renewal notices can be mailed regularly and staff will be able to determine from a central file whether a particular provider has complied with the Operating Standards, thus making enforcement easier.

14 MCAR § 1.7006 Renewal.

14 MCAR § 1.7006 A.

It is necessary to adopt a rule setting forth a procedure for renewal because Minn. Stat. §174.30, subd. 4 requires the Commissioner to issue a certificate annually for each vehicle which complies with the Operating Standards.

14 MCAR §1.7006 B.

In order to give the Commissioner's staff sufficient time to issue the renewal certificate, providers will be required to request renewal at least thirty days prior to expiration of the current certificate. The burden of requesting renewal is on the provider, but the Commissioner must issue the renewal certificate before the provider's current certificate expires. This assures that a provider will not be operating without a certificate. As each certificate is issued for a period of one year, and each provider must have a certificate of compliance in effect in order to be eligible to receive any public funds for transportation, it is important that the renewal overlap or meet the effective date of the current certificate so that there is no time period in which the provider does not have a certificate of compliance in effect.

14 MCAR § 1.7006 C.

It is reasonable to require the Department to issue a new certificate when the renewal application is approved so that vehicle and driver changes will be recorded.

14 MCAR § 1.7007 Inspection.

14 MCAR § 1.7007 A.

This section sets out minimum requirements for inspection. Minn. Stat. § 174.30, subd. 4 requires the Commissioner to provide procedures for determining compliance with the Operating Standards. That section also allows the Commissioner to establish a vehicle inspection. The Commissioner must have a means of investigating complaints which are made against a provider and for determining whether the provider is violating the requirements of the Operating Standards. The Commissioner must be able to inspect vehicles, books and documents when a complaint is made. The Operating Standards impose reasonable inspection requirements.

14 MCAR § 1.7007 B.

This section requires that all complaints and inspections be documented so that a record is established to protect the providers and to insure that each complaint will be formally addressed.

14 MCAR § 1.7007 C.

Subsection C requires the Commissioner to give notice of inspections not less than one week in advance so that the provider can make other arrangements for the transportation of passengers during the time the inspection will be conducted. The Department has received several complaints from consumers who use special transportation services who feel that inspections should be made without warning. The primary objective of conducting an

inspection is to make sure that providers comply with the Operating Standards as much of the time as possible. If the Department gives notice of an inspection and a provider corrects the violation before the inspector reaches the vehicle, the objective has been achieved. The benefit to the passengers of having regularly scheduled special transportation available to them outweighs the benefits of being able to catch the provider in a violation, assuming that the notice of an inspection prompts its correction.

14 MCAR § 1.7007 D.

The providers' records which indicate compliance with the Standards are the driver application records, the vehicle log and the maintenance records. As the Department must certify those vehicles which comply with the Operating Standards, inspection of these records upon receipt of a complaint is a necessary part of determining whether a special transportation service complies with the Operating Standards.

14 MCAR § 1.7007 E.

Subsection E provides a section for failure to permit an inspection. It is necessary to ensure that providers will cooperate when an inspection is scheduled so that the commissioner may determine whether the provider complies with the Operating Standards. It is reasonable because it only deprives the provider of the certificate for as long as the inspection is refused.

14 MCAR § 1.7008 Enforcement.

14 MCAR § 1.7008 A.

If a provider is found in violation of the Operating Standards, the provider will be given thirty days to correct the violation. The written notice will specify what steps the provider must take to correct the violation. This period of time should be sufficient to allow providers to correct any violation, except, perhaps, a failure to employ drivers who have had passenger assistance training. However, the passenger assistance training requirement should not be difficult for providers to comply with as that requirement will not take effect until January 1, 1982. Newly hired drivers will be allowed ninety days to obtain passenger assistance training after they begin to provide special transportation service. These two provisions should enable providers to comply with the Standards and avoid the need to correct this kind of violation in thirty days.

14 MCAR § 1.7008 B.

It is necessary to conduct a second inspection so that the Commissioner may determine that the violation has been corrected and that the provider complies with the Operating Standards.

14 MCAR § 1.7008 C. and D.

It is necessary to hold a hearing prior to revocation so that any dispute or misunderstanding may be examined. The provider must be given notice in advance of the hearing so that he can present his case. The requirement that

the Commissioner revoke the certificate of compliance only after holding a hearing is necessary to ensure compliance with basic tenets of due process.

14 MCAR § 1.7009 Standards for operation of vehicles.

14 MCAR § 1.7009 A. Personnel.

Minn. Stat. § 174.30 requires that the Commissioner establish Operating Standards and provides that he may adopt standards governing driver qualifications, including driver training requirements. Therefore it is reasonable for the Department to adopt standards establishing qualifications for drivers and establishing training requirements.

Subsection A. 1.

The Operating Standards require that each driver have visual acuity of 20/40 in each eye corrected, and a field of vision of 70 degrees in each eye. This standard has previously been used by two other state agencies as a reasonable standard for determining that a person can see well enough to drive safely. The Department of Public Safety rules establishing requirements for commercial driver training vehicles, instructors, and school licensing require that applicants for an instructor's license have normal peripheral vision and visual acuity of not less than 20/40 in each eye corrected. The Department of Education and Minnesota Department of Public Safety rules establishing qualifications for school bus drivers also require that the drivers have visual acuity of not less than 20/40 in each eye corrected. The eye screening

test which is used by the Department of Public Safety identifies individuals who do not have at least 20/40 visual acuity in each eye. Persons who do not pass the vision screening test are sent to an eye doctor for examination. If the doctor determines that the applicant has 20/40 visual acuity, the applicant may take the other portions of the driver license examination and be licensed without restrictions related to eyesight.

Applicants with visual acuity from 20/50 to 20/90 are also permitted to proceed with the driver license examination. However, when those persons are licensed, conditions are imposed which restrict freeway driving, driving speed or prohibit night driving depending on degree of visual impairment. It is necessary that drivers of special transportation service vehicles be free of these restrictions so that they may provide complete and safe service to their passengers. Therefore it is reasonable to require drivers who transport others to have visual acuity of at least 20/40 corrected.

The Department also consulted Dr. Donald Brandt who is an emergency room physician at Unity Hospital in Fridley. Dr. Brandt is a member of the Emergency Physicians Professional Association and is under contract to the Minnesota Department of Health as Medical Director for Emergency Services. Dr. Brandt advised the Department on the proposed physical requirements necessary for drivers of special transportation vehicles and advised the Department that the standards for visual acuity and peripheral vision are necessary to insure the safety of the passengers.

The Operating Standards also require that drivers not have a hearing loss greater than 30 decibels in the better ear with or without a hearing aid. Dr. Brandt stated that this was a reasonable rule for determining whether a driver could hear well enough to allow him or her to transport passengers

safely. Both the Public Service Commission and the Department of Public Safety require a slightly higher standard for drivers who operate common carriers and school buses.

Subsection A. 2.

The requirement that drivers have no current medical condition which interferes with the ability to drive safely is a broadly stated minimum requirement. This rule allows the driver and his or her doctor to determine whether the driver has any medical condition which, in the doctor's opinion, would effect the driver's ability to transport passengers safely. This is a necessary requirement as it is important to protect the health and safety of the passengers who are being transported. Writing the rule this broadly also allows a person who is taking medicine to determine with his or her doctor whether the medicine effects his or her ability to drive safely. The requirement that each driver file a form signed by a physician stating that he or she has no medical condition which interferes with his or her ability to drive safely, is reasonable because it imposes a minimum burden on the driver, and allows a physician who is familiar with the driver's medical condition to sign the statement without conducting an extensive physical examination.

It is necessary to require that a form containing this information be maintained by a driver's employer so that the Department will have access to the information, if it desires to determine through an inspection whether the driver is qualified. The requirement that this statement be obtained prior to the driver's employment is necessary so that persons who have medical conditions which might make it unsafe for them to drive, will be screened prior to the time they begin transporting passengers.

Subsection A. 3.

It is necessary and reasonable to require that each driver or attendant be capable of performing a safety inspection, assisting passengers, and operating lifts and ramps if applicable, because it is necessary to ascertain that each driver or attendant has a certain minimum level of physical ability. Many of the passengers who will be transported have limited physical strength and need assistance entering and leaving the vehicle. That assistance will be provided by the driver or an attendant. Therefore, it is reasonable to require that drivers and attendants have the minimal amount of physical strength necessary to assist persons who cannot assist themselves and to perform a minimum safety inspection to ensure that the vehicle is in good operating condition.

Subsection A. 4.

The requirement that each driver possess a license which is valid for the type of vehicle which he or she drives, gives notice to drivers that there is more than one type of license and that drivers must have the type required by law for the vehicle which will be driven.

The requirement that each driver be at least 18 years of age and have not less than one year of experience as a licensed driver is reasonable and necessary because drivers who transport passengers who cannot provide their own transportation must have experience in operating a motor vehicle beyond the minimum ability to obtain a license.

The requirement that drivers have a driving record clear of revocations, suspensions and cancellations for the past three years, except for suspensions resulting from unpaid parking tickets, is reasonable because it is very important that drivers who transport passengers have good driving records. A driver whose license has been revoked, suspended or cancelled within the past three years casts doubt on his or her ability to operate a vehicle in a safe and responsible matter. Because many of their passengers are disabled or mentally or physically handicapped, drivers of special transportation service vehicles have an additional responsibility to their passengers. It is necessary to have some basis upon which to determine that the driver will drive in a safe and responsible manner and has done so in the recent past.

The Commissioner of Public Safety is required to revoke a driver's license in the following circumstances: conviction of manslaughter resulting from the operation of a motor vehicle, operation of a motor vehicle under the influence of intoxicating liquor or drugs, commission of a felony with a motor vehicle, fleeing the scene of an accident resulting in death or personal injury, perjury relating to motor vehicles, conviction, guilty plea or forfeiture of bail upon three moving violations of Minn. Stat. Ch. 169 within 12 months, or conviction of an offense in another state which if committed in Minnesota would be grounds for revocation. The Commissioner of Public Safety may suspend a driver's license upon evidence that the licensee has committed an offense for which revocation is required, for conviction of a traffic violation where it appears that the violation contributed to death or injury, for habitual recklessness, habitual violation of traffic laws, incompetence, fraudulant use of the license, commission of an act in another state which would be grounds for suspension in Minnesota, failure to surrender a license which has been suspended, revoked or cancelled or failure to appear in court in another state for arrest on a motor vehicle violation. The Commissioner

of Public Safety is also required to suspend the license of any person who has been convicted of violating a law of Minnesota or an ordinance of a political subdivision which regulates parking of motor vehicles and who has been sentenced to pay a fine, has been determined to be able to pay the fine and has refused or failed to pay the fine. In this case, the Commissioner may suspend the person's license for thirty days or until he is notified by the court that the fine has been paid. The Commissioner also has authority to cancel any driver's license upon determining that the licensee was not entitled to receive the license or that the licensee committed fraud in applying for the license.

The Department has received a number of inquiries about this section, almost all of which have dealt with the problem of a person who has been convicted of parking violations and has neglected to pay the fine. Providers have expressed concern that they not be prohibited from hiring a person whose license may have been temporarily suspended due to failure to pay a parking fine. Therefore, because the failure to pay a parking fine does not indicate irresponsibility or recklessness in the operation of a vehicle, an exception for that situation has been added.

It is reasonable to make this standard a criterion of employment because the grounds for revocation, suspension or cancellation indicate irresponsibility and carelessness in the operation of a motor vehicle or fraud or perjury in obtaining a license. It is reasonable to require that drivers who transport passengers have good recent driving records and that providers check the driver's record. A Department of Public Safety study of St. Paul school bus drivers showed that one-third of the drivers who had been involved in accidents in 1980 were not legally qualified to drive.[4]

Subsection A. 5.

Each driver and attendant will be required to complete a four hour first aid course because the groups of passengers which are carried in special transportation service vehicles are often at greater risk medically than the average population carried in regular transit vehicles. The four hour requirement is a minimum standard, and employers and drivers, if they wish, may engage in more extensive training. The areas in which instruction is required are areas in which emergency situations might arise. This training assumes the absence of professional emergency medical assistance when aid is needed. Included in the list of items to be covered in the course is the appropriate use of emergency medical assistance. The current accepted thinking about first aid training is, that it is as important to teach people what not to do, as it is to teach them what to do. Dr. Brandt, who advised the Department about this requirement, stressed that only a minimum number of items must be covered: treatment of shock, control of bleeding, opening of an airway in the event a person stops breathing, prevention of injury due to excessive exposure to heat and cold, identification of certain sudden illnesses and the appropriate use of emergency medical assistance.

It is reasonable and necessary to require drivers to complete a minimum amount of first aid training so that they will be able to render emergency assistance in the event it is needed, and so that they will know when to summon professional emergency medical assistance.

Subsection A. 6. and 7.

The Operating Standards require that drivers receive either four or eight hours of passenger assistance technique training depending on whether the driver handles wheelchairs. The Department sought the advice of two consultants in writing this section. The consultants were Dianne Talbot, a nurse instructor at Sister Kenny Institute in Minneapolis, and John Schatzlein, the Director of Control Data Corporation's Homework Program. Homework employs many handicapped persons in the computer industry. Both of these persons have had extensive work experience with, and professional training in the problems caused by aging and physical disability.

The purpose of training drivers is to reduce anxiety about dealing with special passengers, to dispel myths about the aging process and chronic disease, to enable drivers to provide safe and efficient assistance to elderly and handicapped persons who may need assistance and to instill a sense of profession in the drivers. Driver training also may result in reduced insurance rates for some programs.[5]

The various conditions of the handicapped and of the elderly who are not in good health often result in their having special needs which are not immediately evident to those who are unfamiliar with chronic disease and aging. Passenger assistance technique training is not designed to make medical experts of special transportation service drivers. It is designed to give drivers useful information which they might not otherwise have, even though only a small number of the total number of passengers may have special medical or physical needs. It is worthwhile to provide this information to the drivers to enable them to provide additional assistance to those who may need it.

Many examples can be given to illustrate specific problems which drivers may need to handle if they are carrying passengers suffering from chronic disease. Many drivers are familiar with arthritis and know that they should not assist arthritic passengers by taking hold of their shoulder joints, wrists, or elbows, but they may not know that if they are driving long distances they should not ask an arthritic passenger to sit still for more than an hour at a time. People with arthritis are often in pain and their joints stiffen unless they are able to move around fairly often.

Drivers who are transporting passengers who have cerebral palsy need to understand that, although people with cerebral palsy may have difficulty communicating, the problem is one of motor impairment, not language impairment. Drivers also need to be informed about problems which may arise in passengers who have diabetes. Many diabetics have impaired sensation and as a result are more likely to suffer frostbite. Because of their circulatory problems and their impaired sensation, diabetics must be seated in the warmest part of the vehicle in the winter. Drivers also need to know that diabetic coma may resemble drunkenness. This is a serious problem and drivers should be taught not to assume that a passenger who passes out or appears disoriented has been drinking.

While many people are familiar with epilepsy, they do not know what to do if a person has a seizure. The consultant from Sister Kenny Institute advised that the primary danger to epileptics during seizures is damage to the head from blows due to convulsing. However, it is considered very dangerous to attempt to place something in the mouth of a person who is having a seizure. The accepted practice for a driver who is transporting someone who feels a seizure coming on, (60% of epileptics know when they will have a seizure) is

to pull over, lay the person down and cradle the head or put padding under the head to protect it from blows. Fewer than 1% of convulsing epileptics swallow their tongues. Mrs. Talbot also advised that it is not necessary to call an ambulance unless more than 10 minutes have elapsed after the end of the seizure and the person has not regained consciousness. Most epileptics are disoriented following a seizure and have a strong desire to sleep. She said that epileptics seldom need medical treatment immediately following the seizure. Most drivers do not know these facts and it is reasonable to require them to become familiar with them.

A number of other disabling conditions need to be discussed with special transportation service drivers. Among those are spinal cord injury, multiple sclerosis, Parkinson's disease, stroke and heart disease. Multiple sclerosis is a disease which afflicts approximately one out of every one hundred seventy people in Minnesota, the the highest percentage in the United States. Drivers need to be informed about this disease because the medical condition of a person with multiple sclerosis changes frequently during the course of the disease. Drivers should not believe that because a person exhibits certain symptoms that his condition will be the same the next time they transport him. Because of the frequent changes in medical condition, a person with multiple sclerosis may experience severe emotional stress and may need more patience and understanding than other passengers who may have adjusted to their various disabling conditions.

During the course of passenger assistance training, drivers who transport passengers in wheelchairs should be taught transfer techniques for safely moving passengers from a wheelchair to a car seat and the use of a transfer belt which maximizes the strength of the driver providing assistance, but

does not interfere with the passenger's ability to use a cane or a walker because both of the passenger's arms are free.

Drivers of special transportation service vehicles sometimes suffer back injuries from the strain of assisting passengers who need physical assistance to move. Proper training in the techniques of leverage and in use of the back for effective lifting helps prevent injury to drivers.

Drivers must be taught to fold and load wheelchairs without damaging the wheelchair. Wheelchairs cost several hundred to a thousand dollars and are easily damaged and bent by improper loading. For these reasons it is necessary for drivers to learn how to transfer passengers and how to handle wheelchairs.

Drivers should be given guidelines for driving vehicles carrying handicapped persons. Passengers with impaired mobility and balance are much more easily injured by sudden braking, skids and fast turns. A wheelchair passenger may slide out of his wheelchair if the vehicle stops suddenly.

The passenger assistance training requirement has been divided into two sections. The four hour course comprises an orientation and introduction, an overview of aging and chronic disease, discussion of physical disabilities, discussion of body mechanics and how to assist someone to walk, and an elderly and handicapped consumer panel. This section of the course is sufficient training for drivers who will not handle wheelchairs or transfer people from wheelchairs to seats in the vehicle.

The eight hour course consists of instruction in transfer techniques, the use of canes, crutches and walkers, use of lifts and ramps, safety considerations, a practice session using occupied wheelchairs and a question and answer session.

Subsection A.8.

It is reasonable to require each driver to receive instruction in the use of a fire extinguisher because most people, including most special service transportation drivers, do not know how to use fire extinguishers. The chemical in a fire extinguisher discharges quickly, often in ten seconds to two minutes. In the event of a fire requiring the use of the extinguisher it is important that the driver know how to aim it properly, and how to control the flow to effect the most efficient use of a limited amount of chemicals. The State Fire Marshal's Office recommended that each driver be taught to use a fire extinguisher.

Subsection A. 9.

It is reasonable to require each driver or attendant to complete the required training within 90 days of beginning to provide transportation so that only a limited amount of time will elapse during which the driver is not trained to provide transportation to the groups he or she is transporting. It is reasonable to allow 90 days to elapse so that drivers who are on probation can be observed by their employers and also because there may be difficulty scheduling passenger assistance technique courses prior to the time the driver begins providing such service. This training is important enough to require that each driver be trained very near to the time he or she begins to provide special transportation service.

Subsection A. 10.

It is reasonable and necessary to require that each driver complete a refresher first aid course every three years so that his or her knowledge of first aid training will remain current.

14 MCAR § 1.7009 B. Equipment.

Subsection B. 1.a.

The requirement that each vehicle, when in use, carry a five pound dry chemical fire extinguisher is reasonable and necessary because that is the size and type of fire extinguisher recommended by the State Fire Marshal's Office for special transportation service vehicles. This is a small, inexpensive, dry chemical fire extinguisher for use on electrical, gas, wood or paper fires. It is an all purpose fire extinguisher. Two special transportation service vehicles have experienced fires in the past year. In one case, it was the presence of a fire extinguisher that prevented a serious fire from harming a passenger. It is particularly important that vehicles which transport mobility impaired persons who are not able to escape immediately, have some means of extinguishing a fire.

Subsection B. 1.b.

The requirement that an emergency first aid kit be carried is reasonable because the kit contains items which would be useful if a passenger suffered a medical emergency which required that bleeding be stopped or that a wound be covered until emergency help arrived. The contents of the emergency first aid kit listed in the proposed standards are those which were recommended by the Department's medical advisor, Dr. Brandt. This is a very minimal requirement and assumes that emergency assistance could be readily summoned. Transportation services are free to carry larger first aid kits if they wish. The contents of such a first aid kit would provide sterile material to place over a wound or to use for a pressure dressing to stop bleeding. Dr. Brandt advised Mn/DOT that it is no longer considered advisable for first aid kits

for nonprofessionals to contain splinting materials, tourniquets, bulb syringes, or harsh antiseptics such as iodine.

Subsection B. 1.c.

Many special transportation vehicles carry passengers who cannot walk away from the vehicle if it has a flat tire or who are sensitive to heat and cold and might find it difficult to wait a long period of time for aid to arrive. As it is not uncommon for motor vehicles to have flat tires it is necessary for each vehicle to have equipment for changing a flat tire or to have a means of summoning a reliable source of assistance immediately. Therefore it is reasonable to require that each vehicle carry a spare tire and jack or have a service contract and a radio which enables aid to be summoned immediately. Vans and most minibuses are equipped with a spare tire and jack. Buses or vans with double wheels in the rear or vehicles which are too large or heavy to enable a tire to be changed on the road will be required to have a radio to send for a backup vehicle or for a service vehicle to change the tire.

Subsection B. 1.d.

It is reasonable to require drivers to carry a flashlight in the vehicle so that if the vehicle malfunctions after dark the driver will be able to light his way along the road to place reflective triangles to warn oncoming traffic of the stalled vehicle. The flashlight would also be useful to light the interior of the vehicle after dark in an emergency.

Subsection B. 1.e.

The requirement that approved child restraint systems be used is necessary because the proper use of child auto restraining devices can prevent nearly

ninety percent of deaths and eighty percent of injuries to children in auto accidents.[6]

The Minnesota Medical Association's Department of Legislative Affairs reported in its newsletter[7] that small children need special protection because a child's head is much heavier and larger in proportion to his body than an adult's head. A child can slip under a standard safety belt in a crash or a sudden stop and a diagonal shoulder harness can position itself across a child's neck or face. For these reasons, children need a restraint system designed to fit their smaller bodies and softer bone structure.

The Medical Association reports that ninety percent of children ride unprotected and that reliable protective child restraints are available and relatively inexpensive at a cost of $15.00 to $45.00 each. Presently only two states require that children under a certain size be carried in a protective child restraint, but the National Highway Traffic Safety Administration has adopted standards for child restraint systems which all child restraint systems sold for use in a motor vehicle in the United States must meet. These standards are found in 49 CFR 571.213. Because many special transportation service vehicles carry children, and children are more vulnerable to accidents than adults, it is reasonable to require that all children carried in these vehicles be properly restrained in an approved child seating device. Surveys conducted by the Department of Public Safety, the Minnesota Safety Council, and the Minnesota Medical Association demonstrate that the majority of children are not properly restrained in vehicles. Therefore, it is necessary to require that children carried in special transportation service vehicles be carried in approved child restraint systems.

The Federal regulation describing approved child restraint systems requires that all approved child restraints bear a tag stating what size child can

safely be carried and that the device has been approved for use. Therefore, it is relatively easy for anyone to obtain a device which indicates what size child it fits and to determine that the device has federal approval.

Subsection B. 1.f.

It is reasonable to require special transportation service vehicles to carry three emergency warning triangles so that if the vehicle is stopped on the side of the road after dark, the driver will be able to set out the devices to warn oncoming traffic and prevent a collision with the vehicle. This is especially important for special transportation service vehicles. Some passengers in these vehicles are not able to get out of the vehicle and walk away from a stalled vehicle or move off the side of the road or up a slope off the highway. Therefore, it is important that oncoming traffic be warned of a potential hazard ahead. These reasons establish the necessity and reasonableness of requiring the triangles. A telephone survey conducted by Mn/DOT in September established that they can be obtained at chain auto part stores across the state.

The requirement that the triangle consist of reflective and fluorescent material is necessary to insure that it can be seen easily in the dark by oncoming traffic. Triangles are required rather than flares or other devices because they are safer to use and to store.

Subsections B. 1.g. and h.

It is reasonable to require each vehicle to carry an ice scraper from October 1 to April 30 because this is the time of the year in which a great deal of snow falls. It is particularly important for special transportation service vehicles to be well equipped in the winter because the passengers are more dependent on the safe functioning of the vehicle.

The requirement that a blanket be carried is necessary because many special transportation vehicles carry passengers who have impaired circulation or impaired sensation. It is particularly important to have a blanket in the vehicle to keep such a passenger warm if the heater fails, the passenger needs extra warmth or is sitting in a drafty location. Mn/DOT's consultants on passenger assistance training recommended that a blanket be required.

Subsection B. 2.

The requirement that all seats be securely fastened to the floor or frame of the vehicle is necessary to prevent the use of temporary seating in spaces that are designed to be used for wheelchair securement devices. In other states, serious crashes have been reported involving vehicles carrying folding chairs for temporary seating in unoccupied spaces for wheelchairs.

Subsection B. 3.

The requirement that all ramps have a skid proof surface is necessary so that drivers, while loading and unloading wheelchairs, and passengers who use the ramp in lieu of using steps, will have sure footing getting in and out of the vehicle. The requirement that the ramp be secured to the vehicle when in use is necessary to prevent the ramp from falling from the vehicle when in use. It is therefore reasonable to require that the ramp be slip proof and secured to the vehicle.

Subsection B. 4.

The Standards require vehicles which are equipped with a wheelchair lift and which carry semi-ambulatory persons to be equipped with a lift that has

adjustable or removable railing or with a folding wheelchair that can be stored on the vehicle when the vehicle is in use. This is required because many passengers who are able to walk, but are not able to use steps, use special transportation vehicles and enter and leave the vehicle using the wheelchair lift. Many wheelchair lifts do not operate up and down smoothly and a passenger with impaired mobility and balance can have a very difficult time standing on a lift as it is raised and lowered unless the passenger has something to grasp. Therefore, it is reasonable to require that all lifts be equipped with railings so that a person who must enter and leave the vehicle standing on a lift may have something firm to hold, or, with a boarding chair so that a person who uses a lift without railings will have a wheelchair available in which he or she can sit while the lift operates.

The requirement that railings be removable is reasonable because some wheelchairs, particularly electric wheelchairs, are larger than others because of the location of the power box and the power switch. The electrically powered wheelchair requires more space on the lift than an ordinary wheelchair and comes in contact with the railing. Therefore, requiring removable railings on a vehicle equipped with railings will allow it to accommodate any size wheelchair safely. If providers feel that they do not wish to have a wheelchair lift equipped with railings because of the difficulty of accommodating larger wheelchairs, they may choose to have a folding wheelchair on the vehicle for loading and unloading passengers not in wheelchairs who might use the lift to enter and exit the vehicle.

Subsection B. 5.

The requirement that vehicles which carry occupied stretchers comply with Department of Health rules is reasonable because it gives notice of an additional rule with which providers must comply.

14 MCAR § 1.7009 C. Operation.

Subsection C. 1.

The requirement that all vehicles be maintained and operated in compliance with Minn. Stat. Ch. 169 is reasonable because it gives notice to providers that they must comply with all traffic and motor vehicle laws contained in the statutes.

Subsection C. 2.

Requiring all providers to conduct a daily safety inspection ensures that drivers will become familiar with the vehicle and that six items which are essential to the safe operation of the vehicle will be inspected each time the vehicle is used. Each of the items listed can be easily and quickly inspected visually. No mechanical knowledge is required. The entire inspection will take no more than five minutes and can be performed by any driver. A number of other states, including Missouri, Michigan, North Dakota and Arkansas require pre-trip inspections of special transportation vehicles.[8]

Subsection C. 3.

Providers are also required to conduct a safety inspection every week or one thousand miles. This is a reasonable interval for inspection of the items listed for the more extensive inspection as each of the items listed is essential for the safe operation of the vehicle. The items which are listed under the one thousand mile inspection and which are not listed under the daily inspection are items which are less likely to cause problems on a day to day basis and less likely to need immediate attention.

Such an inspection keeps the provider or driver in touch with the condition of the vehicle and allows problems or defects in these items to be noted and corrected immediately, thus assuring the safe arrival of the passengers.

Subsection C. 4.

It is reasonable to prohibit smoking in the vehicle at all times for two reasons. The first reason is safety. It is much safer for the driver to devote his attention to the road and to the passengers, if necessary, than to look away from the road while lighting a cigarette and smoking during the time he is driving. The second reason for prohibiting smoking is for the health of the passengers. Many passengers are reluctant to ask others not to smoke in their presence and many special transportation passengers have disabilities involving their lungs and respiratory systems which are not visible to the driver and other passengers. Therefore, the burden of providing a safe and healthy environment is placed on the provider. It is reasonable to require that a no smoking sign be posted so that the driver and all passengers will have notice that smoking is prohibited in the vehicle.

Subsection C. 5.

The requirement that drivers and passengers use seat belts at all times and that drivers instruct all passengers to wear seat belts is necessary because fewer than one in five passengers in the United States voluntarily wears a seat belt when traveling in a motor vehicle. Mn/DOT has information which indicates that accidents might have been prevented had the passenger been wearing a seat belt.

In 1977, the United States Department of Transportation, National Highway Traffic Safety Administration compiled information which indicates the importance of wearing seat belts. One million people are injured each year in motor vehicle accidents. The purpose of a safety belt is to prevent a person from becoming a free floating object in a car in a collision. D.O.T. statistics indicate that lap and shoulder belts users have sixty percent fewer major injuries, and that without safety belts chances of being injured increase by forty percent.

Mn/DOT has received many objections to requiring passengers and drivers to wear seat belts based on the perceived objections of the passengers. Statistics indicate that the odds of surviving a crash are twenty five times greater if the passenger is restrained inside the car. Eighty percent of all accidents occur within twenty five miles of the home and fatalities involving nonbelted occupants have been recorded at speeds as low as twelve miles per hour. Therefore, it is reasonable and necessary for all transportation services which have seat belts in the vehicle to require the occupants to wear them and to require the drivers to direct each passenger to fasten the seat belt. This is particularly important for passengers who may have chronic illness, disabilities or impairments because they are more likely to be injured in the event of a crash. Requiring drivers to wear seat belts makes it more likely that in the event of an accident the driver will remain in his seat and retain control of the vehicle.

Subsection C. 6.

Presently Minnesota law requires passenger buses weighing in excess of ten thousand pounds to be equipped with flares or flags which can be displayed on the highway in the event the vehicle is disabled while traveling on the

highway. It is reasonable to require that special transportation service vehicles for the elderly and handicapped also carry warning triangles in the vehicle and place them at specified distances from a disabled vehicle to warn oncoming traffic. This is particularly important for vehicles carrying people who must stay with the vehicle until help arrives.

14 MCAR § 1.7009 D. Maintenance.

Subsection D. 1. and 2.

The rules require that all vehicles be maintained in accordance with the manufacturer's maintenance schedule or an improved schedule based on actual operating conditions. This is reasonable because the manufacturer is best able to determine how the vehicle should be maintained. It is reasonable to allow operators to use a stricter maintenance schedule on the assumption that they know whether or not the vehicle is subjected to average use or greater than average use. It is necessary to require that operators correct any deficiency that might interfere with the safe operation of the vehicle before the vehicle is placed in service so that passengers will not be subjected to any unnecessary risk based on the assumption of the operator that the vehicle can be driven with the deficiency. This is particularly important for vehicles which carry disabled passengers because they are more likely to be injured in an accident and are not able to walk away from a stalled vehicle.

Subsection D. 3. and 4.

The requirement that windows, lights, and interiors of vehicles be clean and in good repair is reasonable because visibility is improved and the safety of the passengers is enhanced by this requirement.

14 MCAR § 1.7010 Insurance.

Minn. Stat. § 174.30 provides that the Commissioner may require minimum insurance as one of the elements of Operating Standards.

14 MCAR § 1.7010 A.

The Operating Standards require that providers meet the requirements of the Minnesota No Fault Insurance Law. They also require that each provider carry basic economic loss benefits in the amount required by law and personel injury protection which provides coverage for payments relating to lost wages, loss of future wages, death benefits, and medical expenses. The Operating Standards also require a minimum amount of uninsured motorist coverage as required by Minnesota law.

The Standards also require residual liability coverage or bodily liability coverage in three different amounts. Private providers are required to carry one hundred thousand dollars, subject to a maximum of three hundred thousand dollars, for injury or death of two or more persons in a single accident. This is a reasonable minimum amount of insurance for private providers. Most providers carry a policy with higher limits.

Municipalities and entities of the state are required to carry an amount equal to the maximum tort liability which could be imposed upon each, respectively, in the event of a claim. It was determined that it would not be appropriate to require a governmental unit to carry more insurance than the amount of liability that the governmental unit could face under the Tort Claims Act.

14 MCAR § 1.7010 B.

Each provider will be required to have its insurer file with the Department, a certificate of insurance, for the special transportation service vehicles which he operates. This is necessary so that the Department can determine that each provider is insured as required by these Operating Standards. It is a reasonable requirement because it is a very easy requirement to meet and does not impose a costly burden on the provider.

It is reasonable to require that the insurer notify the Department in writing prior to the termination of coverage by either party so that the Department can take action to revoke the certificate in the event that the insurance is terminated. Operating special transportation vehicles without insurance would be a violation of state law as well as a violation of the Operating Standards. It is necessary for the Department to be able to determine that the operator is insured and to know when the insurance has been terminated.

14 MCAR § 1.7010 C.

It is reasonable to allow providers who are self insured to qualify as self-insurers for purposes of these rules because the law provides a procedure by which they may do so, in lieu of carrying an insurance policy.

14 MCAR § 1.7011 Records

14 MCAR § 1.7011 A. 1.-8.

Each provider will be required to maintain files containing driver application forms, the physician's statement, correspondence with the Commissioner,

accident reports and records of insurance claims arising from the operation of the operator's vehicle, the service records for each vehicle and the driver's log book if the log book is not maintained in the vehicle. It is necessary to require the operators to maintain these records so that if a complaint is made, Mn/DOT will have the opportunity to inspect the records to be sure that the drivers comply with the requirements of the rules and to determine that the vehicle is being operated and maintained in the manner required by the Operating Standards. These are reasonable methods of determining compliances with these rules. Operators who maintain these records should also find it easier to comply with the Operating Standards if the records are regularly maintained.

Each provider must maintain a driver and attendant application form for each driver and attendant and a physician's statement for each driver. The application form requires the inclusion of a statement signed by a physician, stating that he or she is familiar with the medical condition of the driver named on the form and finds that the driver has no current medical condition which interferes with the ability to drive safely. It is reasonable to request that this statement be obtained so that the Department can determine that each driver is physically fit to transport passengers. The other required information enables the Department to identify each driver and determine that he or she is qualified to drive. It is necessary to ask for each driver's birthdate so that driver records in the Department of Public Safety can be checked. That information can be obtained only with the name and birthdate of the driver.

The information which must be provided about training courses is necessary to allow the Department to determine that the driver complies with the requirements

of the Operating Standards. Failure to meet any of the requirements would be grounds for issuing a notice of violation to the provider. The Department received many statements objecting to this requirement on the basis that the amount of paper to be exchanged in the mail imposed a considerable burden on the providers. As the Department is not conducting a precertification inspection, it is reasonable to allow the providers to maintain the information in their files and to certify on the application form that they send in that each driver hired by the provider complies with the requirements of the Operating Standards. The Interagency Task Force agreed that this was a reasonable procedure and recommended its adoption.

14 MCAR § 1.7011 B.

Each provider is required to maintain in the vehicle a card showing the name of its insurance company, telephone number and agents name, accident report forms, and a card showing local emergency telephone numbers. These are reasonable because they assure that in the event of an accident the driver will have the telephone number and the name of the agent, accident report forms which can be completed while the events surrounding the accident are still fresh in his or her memory, and local emergency telephone numbers in case it is necessary to call for emergency assistance. Many special transportation service vehicles now carry cards with emergency telephone numbers.

14 MCAR § 1.7012 Certification of Training Courses.

14 MCAR § 1.7012 A.

The Operating Standards require that all training courses be certified prior to the time they are attended by the drivers. This is a reasonable requirement

because the rules specify certain items which must be discussed and taught in each course and also specify the qualifications of the persons who will be approved to teach the courses. Because the rules prescribe these two things, it is reasonable and necessary for Mn/DOT to require that all proposed courses be submitted to it for prior approval. This provides a service to the providers because it reduces the possibility that a provider will offer specific course or pay for attendance at a course by its driver, and then find that the course has been disapproved by Mn/DOT because it does not meet the requirements of the rules. Therefore, the information which must be submitted about each course and about the instructor is necessary so that courses can be certified.

14 MCAR § 1.7012 B.

The name, address, employment, and relevant training of the instructor must be shown so that Mn/DOT can determine that the instructor is qualified to teach the course. Also, the name and address of any institution which is sponsoring the course must be shown.

14 MCAR § 1.7012 C.

The rules require that any first aid course be taught by a person who is a licensed physician, registered nurse, licensed practical nurse, a paramedic, an emergency medical technician, or a certified first aid instructor. Each of these persons, with the exception of the certified first aid instructor, is licensed by the state to provide varying degrees of emergency medical assistance to injured persons.

The American Red Cross offers certified first aid instructor training and uses the instructors it trains to teach its own first aid courses. The Department's medical advisor, Dr. Brandt, believes that each of the listed persons would be qualified to teach a basic first aid course to drivers of special transportation vehicles.

The rules require that passenger assistance technique training be taught by a person who is a licensed physician, registered nurse, registered physical therapist, registered occupational therapist, public health nurse, or other health professional who has had work experience with physical disabilities, aging, and communication disorders.

The teaching of passenger assistance technique training requires the ability to explain certain medical conditions related to aging, chronic disease and physical disability. Persons with some medical training or with training in physical therapy or occupational therapy would be qualified to teach this portion of the course. The requirement that these persons have work experience with physical disabilities and communication disorders is reasonable because many people who have medical training do not have any experience with persons who have physical disabilities, aging, or communication disorders and are not familiar with the limitations created by these conditions or with the abilities of people who have these conditions. Therefore, it is reasonable to require that persons who will teach passenger assistance training have work experience with the kinds of passengers who are transported by special transportation service vehicles. This assures that the people who will teach drivers how to deal with these passengers will have had a range of experiences which will enable them to answer questions and to comment on experiences which drivers may have with elderly and handicapped passengers. These requirements were written with the assistance of a consultant from Sister Kenny Institute in Minneapolis.

14 MCAR § 1.7012 D.

It is reasonable to require the Department to approve or disapprove applications for approval of training courses in writing so that an applicant will know why the course application was denied. The 30-day requirement insures that applicants will receive timely consideration of their requests for approval of training courses, so that they will be able to arrange training courses as soon as possible.

14 MCAR § 1.7013 Variance.

14 MCAR § 1.7013 A.

This section allows the Commissioner to grant variances from any of the rules except those which give notice of certain statutory requirements. A provision allowing the granting of variances is necessary because all special transportation services are not alike, and yet the rules must be uniform in their application. The provision for granting a variance allows the Commissioner to treat a unique circumstance differently from other circumstances when the applicant makes an affirmative showing that the rule in question can be met or exceeded by application of an alternative practice, and that the health and safety of the public will not be jeopardized by the granting of the variance, and that the rule in question imposes an excessive burden on the applicant.

The reasonableness of this rule is also supported by the requirement in the authorizing legislation that the Department not adopt any rule which would unduly restrict the provision of special transportation services by any

person or entity due to the administrative or other cost of compliance. The provision allowing the granting of a variance allows the Department to take that requirement into consideration while applying the rules on a uniform and equal basis.

The rules require that if the special circumstance which justified granting the variance change, the applicant must immediately notify the Department in writing and the Department will impose the requirement as stated in the rules. This is necessary so that alternative practices which do not comply with the language of the rules will be permitted only when the circumstances justify them.

Dated this 7th day of November, 1980.

Richard P. Braun
Commissioner of Transportation

Footnotes

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2. U.S. Bureau of the Census; Estimates of the Population of the States, 1978 and 1979. Series P25, No. 868.

3. U.S. Department of Health, Education and Welfare, Office of Human Development Services, New Insurance Programs for Human Service Transportation Providers, Technical Advisory No. 1, August, 1979.

4. Minneapolis Tribune, October 23, 1980.

5. F. Davis, W. Dotterweich and D. Burkhalter, Risk Management Manual for Human Service Agencies, Transportation Center, University of Tennessee (Final Draft, April, 1980).

6. C. Fischer, Big Protection for Little People, Spring, 1979, Vol. 38, No. 1, p. 22.

7. Update, Minnesota Medical Association (undated).

8. Safety Manual for UMTA 16(b)(2) Vehicle Operators, Arkansas State Highway and Transportation Department, October, 1977; Michigan Small Bus Program Operator's Manual, Michigan Department of State Highways and Transportation, Revised, July, 1978; Transportation Service Standards for Providers of Special Transportation Services, Missouri Department of Transportation, July, 1979; A Public Transportation Safety Program, Recommendations for Selection and Training of Bus Drivers, North Dakota State Highway Department, January, 1977.

APPENDIX A

INTERAGNCY TASK FORCE ON SPECIAL TRANSPORTATION SERVICES

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APPENDIX

ADMIN 1000 (Rev. 1/78)

STATE OF MINNESOTA

DEPARTMENT OF TRANSPORTATION
Room 818

Office Memorandum

TO : Interagency Task Force on Coordination of Special Transportation Service

DATE: August 20, 1980

FROM : Betsy Parker
Operating Standards Coordinator

PHONE: 296-1608

SUBJECT: Operating Standards for Special Transportation Service - Proposed budget for enforcement for Fiscal Year 1980-81

On Tuesday, July 29, Al Schenkelberg and I met with Don Berg, Director of Rates and Regulations, to discuss the budget for enforcement of the proposed Operating Standards. At that meeting, it was agreed that we would attempt only minimal enforcement during the first year of enforcement and that there would be no general statewide inspection of special transportation service vehicles. Inspections will only be made when a complaint is filed against a specific operator.

We also agreed that the staff for enforcing the Operating Standards and issuing the certificates of compliance between January and July of 1981 would probably consist of one and a half people, or one and a half full-time equivalent people. This would probably be one full time clerical person and a haf time motor transportation representative or person acting in a similar capacity.

The legislature appropriated $75,000. to draft and enforce the Operating Standards until 6-31-81. Approximately $34,000 to $40,000 will be set aside for salaries and $5,000 will be set aside for training programs to be run by the State to enable providers to comply with the training requirements in the Operating Standards. Money will also be budgeted to pay for the cost of having a manual printed to tell providers how to comply with the standards and to pay for the cost of holdong the public hearing.

APPENDIX C

Minnesota Department of Transportation
Transportation Building, St. Paul, MN 55155
612-296-3000

October 3, 1980

Honorable Stanley Fudro
Chairman
House Transportation Committee
Room 165, State Office Building
St. Paul, Minnesota 55155

Dear Representative Fudro:

Minn. Stat., 1979 Supp., § 174.30 directs the Department of Transportation to " . . . adopt standards for the operation of vehicles used to provide special transportation service . . . "

On April 7, 1980 the Department published in the State Register, a notice of intent to solicit opinion concerning the proposed standards. The following week, 400 copies of the notice of proposed rulemaking were mailed to special transportation service providers. Approximately seventy people responded with comments and were placed on a mailing list to receive drafts of the proposed Operating Standards. In addition, about eighty-five people have asked to be added to that mailing list.

With the advice and assistance of the fifteen member Interagency Task Force on Coordination of Special Transportation Services, interested persons on the mailing list and Mn/DOT staff, we have prepared and revised eleven drafts of the proposed Operating Standards.

The proposed Operating Standards will be published in the State Register on October 27. Mn/DOT will hold a public hearing on the adoption of the Operating Standards as rules on December 2, 1980, in Room 81, State Office Building at 10:00 a.m.

The draft rules are attached for your review, as required by Minn. Stat., 1979 Supp., § 174.30, subd. 5(a). The draft rules contain an enforcement plan. The proposed budget for enforcing the rules is set out below.

Mn/DOT will provide the forms to be used for applications, certification of training courses, variance applications and driver information forms. We also hope to prepare a handout or small manual for providers to assist them in locating training courses and safety equipment and in completing the required forms.

The Operating Standards when adopted will be enforced by the Office of Rates and Regulation, Division of Public Transportation in Mn/DOT. One clerk typist II will be needed in the St. Paul office to receive application forms, verify information provided on the forms, mail certificates of compliance to providers,

maintain a roster of certified providers, mail renewal notices, file the certificates of insurance and answer public inquiries. The salary range for a clerk typist II is $4.56 per hour to $5.55 per hour ($9,521 to $11,588 annually).

One Motor Transportation Representative will be needed to supervise the clerk typist, make decisions about the granting of variances, conduct field inspections upon receipt of a complaint and assist providers in complying with the rules. The salary range for an MTR is $6.43 per hour to $7.91 per hour ($13,426 to $16,516 annually).

Benefits equal approximately 39% of an employee's annual salary. The total cost of this program for the fiscal year ending June 30, 1981 has been computed as follows:

$34,200	-	seasonal and temporary salaries
200	-	advertising
5,000	-	printing and binding
35,000	-	professional and technical services - (includes public hearing and training expenses)
500	-	in-state travel
100	-	freight and express
$75,000		TOTAL

The Division of Public Transportation will request funds to administer this program in its 1982-83 biennial budget request.

The schedule for adoption which was set forth in the memo of June 25, 1980 has been revised. We will submit the proposed rules for publication on October 13, publish the proposed rules and notice of hearing on October 27, and hold the hearing on December 2, 1980.

If you have any questions or comments about the attached draft rules and proposed budget, please feel free to call me or Allan J. Schenkelberg. This letter and the draft rules have not been distributed to other members of the Committee. We will be happy to provide additional copies of the draft rules if you wish.

Sincerely,

Richard P. Braun
Commissioner

Attachments

Rep. Janet Clark
Senator Purfeerst
R. J. McDonald
Sherri Alston
Peter A. Fausch
Don Berg
Robert Works
R. B. Keinz
Senator Conrad Vega
A. J. Schenkelberg
E. E. Ofstead
Mary Darragh-Schmitz
B. Parker
Interagency Task Force members

APPENDIX D

Minnesota Department of Transportation
Transportation Building, St. Paul, MN 55155

612-296-3000

October 3, 1980

Honorable Clarence Purfeerst
Chairman
Senate Transportation Committee
Room 323, State Capitol
St. Paul, Minnesota 55155

Dear Senator Purfeerst:

Minn. Stat., 1979 Supp., § 174.30 directs the Department of Transportation to " . . . adopt standards for the operation of vehicles used to provide special transportation service . . . "

On April 7, 1980 the Department published in the State Register, a notice of intent to solicit opinion concerning the proposed standards. The following week, 400 copies of the notice of proposed rulemaking were mailed to special transportation service providers. Approximately seventy people responded with comments and were placed on a mailing list to receive drafts of the proposed Operating Standards. In addition, about eighty-five people have asked to be added to that mailing list.

With the advice and assistance of the fifteen member Interagency Task Force on Coordination of Special Transportation Services, interested persons on the mailing list and Mn/DOT staff, we have prepared and revised eleven drafts of the proposed Operating Standards.

The proposed Operating Standards will be published in the State Register on October 27. Mn/DOT will hold a public hearing on the adoption of the Operating Standards as rules on December 2, 1980, in Room 81, State Office Building at 10:00 a.m.

The draft rules are attached for your review, as required by Minn. Stat., 1979 Supp., § 174.30, subd. 5(a). The draft rules contain an enforcement plan. The proposed budget for enforcing the rules is set out below.

Mn/DOT will provide the forms to be used for applications, certification of training courses, variance applications and driver information forms. We also hope to prepare a handout or small manual for providers to assist them in locating training courses and safety equipment and in completing the required forms.

The Operating Standards when adopted will be enforced by the Office of Rates and Regulation, Division of Public Transportation in Mn/DOT. One clerk typist II will be needed in the St. Paul office to receive application forms, verify information provided on the forms, mail certificates of compliance to providers,

maintain a roster of certified providers, mail renewal notices, file the certificates of insurance and answer public inquiries. The salary range for a clerk typist II is $4.56 per hour to $5.55 per hour ($9,521 to $11,588 annually).

One Motor Transportation Representative will be needed to supervise the clerk typist, make decisions about the granting of variances, conduct field inspections upon receipt of a complaint and assist providers in complying with the rules. The salary range for an MTR is $6.43 per hour to $7.91 per hour ($13,426 to $16,516 annually).

Benefits equal approximately 39% of an employee's annual salary. The total cost of this program for the fiscal year ending June 30, 1981 has been computed as follows:

$34,200	-	seasonal and temporary salaries
200	-	advertising
5,000	-	printing and binding
35,000	-	professional and technical services - (includes public hearing and training expenses)
500	-	in-state travel
100	-	freight and express
$75,000		TOTAL

The Division of Public Transportation will request funds to administer this program in its 1982-83 biennial budget request.

The schedule for adoption which was set forth in the memo of June 25, 1980 has been revised. We will submit the proposed rules for publication on October 13, publish the proposed rules and notice of hearing on October 27, and hold the hearing on December 2, 1980.

If you have any questions or comments about the attached draft rules and proposed budget, please feel free to call me or Allan J. Schenkelberg. This letter and the draft rules have not been distributed to other members of the Committee. We will be happy to provide additional copies of the draft rules if you wish.

Sincerely,

Richard P. Braun
Commissioner

Attachments

Rep. Janet Clark	Senator Conrad Vega
Rep. Fudro	A. J. Schenkelberg
R. J. McDonald	E. E. Ofstead
Sherri Alston	Mary Darragh-Schmitz
Peter A. Fausch	B. Parker
Don Berg	Interagency Task
Robert Works	Force members
R. B. Keinz	

STATE OF MINNESOTA

DEPARTMENT OF TRANSPORTATION

In the Matter of the Proposed Adoption of Rules of the Department of Transportation Relating to Operating Standards for Special Transportation Service.	FINDINGS OF FACT AND CONCLUSIONS

- -

The above-entitled matter came on for hearing before Hearing Examiner George A. Beck on the 2nd day of December, 1980, at 10:00 A.M. in the State Office Building, Room 81, Saint Paul, Minnesota, after proper notice required by Minnesota Statutes § 15.0412 was served upon all persons, associations, and other interested groups registered with the Department of Transportation for that purpose.

After affording interested persons an opportunity to present written and oral data, statements and arguments, having heard all of the testimony, having considered all of the evidence adduced upon the records, files, and proceedings herein, I find the following:

1. The findings of Hearing Examiner Beck in his Report dated January 8, 1981 are adopted in their entirety.

2. The Chief Hearing Examiner, Duane R. Harves, has found the following changes to be non-substantial and is indicated in his Order dated March 12, 1981. The changes below are those suggested in the Hearing Examiner's Report findings 22, 26, 29, 30, 32, 50, 54 and 59.

A. Section 1.7003 P. defines "semi-ambulatory." It was found by the Hearing Examiner that the "Planning Council on Developmental Disabilities" suggested that the word "and" should be changed to "or" and that the last nine words of the definition be replaced with the phrase "with the aid of an artificial limb or personal assistance device such as braces, a cane(s), a crutch(es) or a walker." This change is found to be needed and reasonable, and has been incorporated into the rules.

In the Matter of the Proposed Adoption) of Rules of the Department of Trans-) portation Relating to Operating) Standards for Special Transportation) Service.)

B. Section 1.7005 C. formerly contained the words: "the commissioner determines that." The words have been deleted (as suggested by the Hearing Examiner) to eliminate the possibility that an inference be made that the Commissioner had discretionary powers in making a decision on the issuance of a certificate, except on the basis of information supplied by the applicant.

C. Section 1.7008 A. It was found by the Hearing Examiner that the "Planning Council on Developmental Disabilities" suggested that language be added to provide that where the violation threatened the life or safety of passengers the commissioner require the provider to remove the vehicle or driver from operation immediately. This change is found to be needed and reasonable. Amended language has been incorporated into the rules.

D. Section 1.7008 B. no longer requires the commissioner to invariably conduct an inspection to ascertain if a violation of the rules has been corrected. The Hearing Examiner found that the Minnesota Association of Health Care Facilities (MAHCF) suggested that evidence of compliance might be mailed to the Department in certain instances. This change is found to be needed and reasonable and has resulted in amended language which has been incorporated into the rules.

E. Section 1.7008 C. has been amended in view of the Hearing Examiner's recommendations that the rule be modified to eliminate discretionary language and to make the suspension/revocation administrative technique of the department flexible. This change is found to be needed and reasonable and has been incorporated into the rules.

In the Matter of the Proposed Adoption)
of Rules of the Department of Trans-)
portation Relating to Operating)
Standards for Special Transportation)
Service.)

F. Section 1.7009 C.3. was suggested by the Hearing Examiner to be amended to delete the word "a" from the second line in the rules as proposed to make the sentence grammatically correct. The change is needed and reasonable and has been made.

G. Section 1.7010 C. relates to self insurance. The Hearing Examiner has found the language of this subsection should be clarified, and suggested that the word "shall" be changed to "may" thereby avoiding the possible implication that self insurance is intended to be mandatory. No intention was so desired; therefore the change. We find the change needed, reasonable, and necessary.

H. Section 1.7013 A.2. requires the Commissioner to set forth in writing his reasons for granting or denying a variance. Recommendations by the Hearing Examiner and several Minnesota legislators (named in the report) suggest the language be strengthened to provide that if a variance is denied, without a hearing, the applicant may request a contested case hearing within 30 days of receiving notice of the denial. This change is found to be needed and reasonable, and has been incorporated into the rules.

3. It is also found that all other changes have been discussed in hearing and are a part of the record of that proceeding and are discussed in the Hearing Examiner's Report.

STATE OF MINNESOTA

DEPARTMENT OF TRANSPORTATION



Richard P. Braun
Commissioner

Dated this 25 day of March, 1981.

DOT Exh. No. 8
File No. DOT-81-007-00
Date 12/2/80

Project description: Provide actuarial consultant services to Association; prepare and submit actuarial valuations, actuarial surveys and reports as required in Minn. Stat. § 356.215; assist in the preparation of the certification of funds required from the state; consult with the director of the board and staff on any matters of actuarial nature; make any necessary special statistical studies in connection with proposed legislation; and perform any other services of an actuarial nature which the Board may deem desirable.

Final submission date—April 30, 1980.

Department of Transportation

Notice of Intent to Solicit Opinion Concerning A Proposed Rule Relating to Operating Standards for Special Transportation Services

Notice is hereby given that the Minnesota Department of Transportation is considering the adoption of standards for the operation of vehicles used to provide special transportation services, which are reasonably necessary to protect the health and safety of individuals using those services.

Special transportation service means motor vehicle transportation provided on a regular basis by a public or private entity or person that is designed exclusively or primarily to serve individuals who are elderly, handicapped, disabled or economically disadvantaged and who are unable to use regular means of transportation.

The proposed standards are authorized by Minn. Stat. § 174.30 (1979 Supp.) which requires the commissioner to adopt standards which include but are not limited to:

(a) Qualifications of drivers and attendants including driver training requirements;

(b) Safety equipment required for vehicle;

(c) General requirements concerning maintenance of standard equipment of vehicles; and

(d) Minimum insurance requirements.

The proposed operating standards will not apply to transportation provided by a common carrier operating on fixed routes and schedules, a taxi, or volunteer driver using a private automobile, a school bus as defined in Minn. Stat. § 169.01, subd. 6, or an emergency ambulance regulated under Minn. Stat. ch. 144.

All interested or affected persons or groups may submit information on this subject. Written or oral information and comment should be addressed to:

Allan J. Schenkelberg, Director
Modal Planning Section
Room 820, Transportation Building
Mn/DOT
John Ireland Boulevard
St. Paul, Minnesota 55155

All statements of information and comment must be received by April 30, 1980. Any written material received by this date will become part of the record of any rules hearing held on this subject.

Richard P. Braun
Commissioner of Transportation

RECEIVED
OCT 31 1980
OFFICE OF HEARING
EXAMINERS

RECEIVED
OCT 31 1980
OFFICE OF HEARING EXAMINERS

STATE OF MINNESOTA

DEPARTMENT OF TRANSPORTATION

Notice of Intent to Solicit)
Opinion Concerning a Proposed)
Rule Relating to Operating)
Standards for Special Trans-)
portation Services.)

NOTICE is hereby given that the Minnesota Department of Transportation is considering the adoption of standards for the operation of vehicles used to provide special transportation services, which are reasonably necessary to protect the health and safety of individuals using those services.

Special transportation service means motor vehicle transportation provided on a regular basis by a public or private entity or person that is designed exclusively or primarily to serve individuals who are elderly, handicapped, disabled or economically disadvantaged and who are unable to use regular means of transportation.

The proposed standards are authorized by Minn. Stat. § 174.30 (1979 Supp.) which requires the Commissioner to adopt standards which include but are not limited to:

(a) Qualifications of drivers and attendants including driver training requirements;

(b) Safety equipment required for vehicle;

(c) General requirements concerning maintenance of standard equipment of vehicles; and

(d) Minimum insurance requirements.

Notice of Intent to Solicit)
Opinion Concerning a Proposed)
Rule Relating to Operating)
Standards for Special Trans-)
portation Services.)

The proposed operating standards will not apply to transportation provided by a common carrier operating on fixed routes and schedules, a taxi, or volunteer driver using a private automobile, a school bus as defined in Minn. Stat. § 169.01, subd. 6, or an emergency ambulance regulated under Minn. Stat., ch. 144.

All interested or affected persons or groups may submit information on this subject. Written or oral information and comment should be addressed to:

Allan J. Schenkelberg, Director
Modal Planning Section
Room 820, Transportation Building
Mn/DOT
John Ireland Boulevard
St. Paul, Minnesota 55155

All statements of information and comment must be received by April 30, 1980. Any written material received by this date will become part of the record of any rules hearing held on this subject.

Richard P. Braun
Commissioner

Dated this 31st day of March, 1980.

DOT Bdl. No. 1
File No. DOT-81-007-6A
Date 12/2/80

RECEIVED
OCT 31 1980
OFFICE OF HEARING EXAMINERS

STATE OF MINNESOTA

DEPARTMENT OF TRANSPORTATION

In the Matter of the Proposed Adoption of Rules of the Department of Transportation Relating to Operating Standards for Special Transportation Service.

ORDER FOR HEARING

IT IS HEREBY ORDERED that a public hearing on the above-captioned rules be held in Room 81, State Office Building (between Aurora and Fuller), St. Paul, Minnesota on the 2nd day of December, 1980, commencing at 10:00 A.M. and continuing until all persons have had an opportunity to be heard.

IT IS FURTHER ORDERED that a Notice of Hearing be mailed to all persons or representatives of associations or other interested groups who have registered their names with the Department of Transportation for that purpose.

IT IS FURTHER ORDERED that the Notice of Hearing be published in the State Register.

for Richard P. Braun
Commissioner of Transportation

Dated this 1st day of October, 1980.

Subscribed and sworn to before me this
1st day of October, 1980.

Colette E. Prokop
Notary Public

COLETTE E. PROKOP
NOTARY PUBLIC—MINNESOTA
RAMSEY COUNTY
My Comm. Expires Sep. 13, 1986

STATE OF MINNESOTA

DEPARTMENT OF TRANSPORTATION

In the Matter of the Proposed Adoption of Rules of the Department of Transportation Relating to Operating Standards for Special Transportation Service.	NOTICE OF HEARING

Notice is hereby given that a public hearing in the above entitled matter will be held pursuant to Minn. Stat. § 15.0412, subd. 4 (1978) in Room 81, State Office Building (between Aurora and Fuller), St. Paul, Minnesota on December 2, 1980, at 10:00 A.M.

The statutory authority of the Department of Transportation to adopt these rules is provided in Minn. Stat. § 15.0412, subd. 3, and Minn. Stat., 1979 Supp., § 174.30, subds. 2 and 5.

The proposed rules, if adopted, would establish the scope of the rules and provide definitions for terms used therein and would:

1. Require an annual Certificate of Compliance for vehicles used to provide special transportation service - which service is generally defined as motor vehicle transportation provided:

   a. on a regular basis, and

   b. designed exclusively or primarily to serve individuals who are

      1. elderly (over the age of 55), or
      2. handicapped, or
      3. disabled, or
      4. economically disadvantaged, and
      5. unable to use regular means of transportation;

2. Establish standards and procedures for the issuance of Certificates of Compliance, including:

a. provider qualification procedures,

b. information to be provided by persons proposing to provide such service,

c. evidence of certification,

d. records to be kept by the State,

e. time and manner of issuance of the Certificate.

3. Establish procedures for the renewal of Certificates of Compliance;

4. Establish procedures for the inspection of provider records and vehicles upon complaint;

5. Establish enforcement procedures by which the Commissioner may revoke a Certificate of Compliance for persons found in violation of the rules;

6. Establish standards for the operation of vehicles used in the provision of special transportation services, including:

a. driver training and qualifications

b. physician's health certificate, and

c. duties of driver or attendant, and;

7. Establish standards requiring certain safety equipment be carried on vehicles;

8. Establish standards for vehicle maintenance, operation, and safety inspection;

9. Establish standards requiring minimum insurance requirements and the filing of evidence of coverage with the State;

10. Establish standards for the form and maintenance of records by providers;

11. Establish standards for the certification of training courses, including:

a. application for approval, and

b. time and manner of approval, and

c. qualifications of instructors, and

d. curriculum.

12. Establish standards for granting variances and variance revocation procedures under these rules.

A copy of the rules is attached. Additional copies of the proposed rules are now available and one free copy may be obtained by writing to:

Peter A. Fausch
Assistant Commissioner for Planning
Minnesota Department of Transportation
413 Transportation Building
St. Paul, Minnesota 55155

The rules will be available at the door on the date of the hearing.

NOTICE IS HEREBY GIVEN that twenty-five (25) days prior to the hearing a Statement of Need and Reasonableness will be available for review at the Department of Transportation address given immediately above and at the Office of Administrative Hearings. This Statement of Need and Reasonableness will include a summary of all of the evidence which will be presented by the Department at the hearing justifying both the need for and the reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be obtained from the Office of Administrative Hearings.

The proposed rules are subject to change as a result of the rule hearing process. The Department of Transportation therefore strongly urges those who may be affected by these proposed rules to participate in the rule hearing process.

All interested or affected persons will have an opportunity to participate concerning the adoption of proposed rules relating to operating standards for special transportation service. Statements may be made orally and written material may be submitted at the hearing. In addition, whether or not an appearance is made at the hearing, written statements or material may be submitted by mail to George A. Beck, Hearing Examiner, Office of Administrative Hearings, at Room 300, 1745 University Avenue, St. Paul, Minnesota 55104, telephone (612) 296-8108, either before the hearing or within five (5) working days after the close of the hearing. If so ordered by the Hearing Examiner, the hearing record may remain open and such materials may be submitted for a period longer than five (5) working days but not exceeding twenty (20) calendar days after the close of the hearing. All such statements and materials will be entered into and become a part of the record for this proceeding. The Department of Transportation hereby requests those submitting written statements to provide a duplicate copy of said materials to the departmental address above, if possible. The rule hearing procedure is governed by Minn. Stat. §§ 15.0411 to 15.0412 and § 15.052; as well as by 9 MCAR §§ 2.101 to 2.112 (Minnesota Code of Agency Rules). If you have any questions about the procedure, call or write the hearing examiner.

Any person may request notification of the date on which the Hearing Examiner's Report will be available, after which date

the Department of Transportation may not take any final action on the rules for a period of five (5) working days. Any person may request notification of the date on which the hearing record has been submitted (or resubmitted) to the Attorney General by the Department of Transportation. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Hearing Examiner (in the case of the Hearing Examiner's Report) or to the Department (in the case of the Department's submission or resubmission to the Attorney General).

The Department expects that one hundred persons may attend the hearing and it estimates that one to two hours will be necessary for the Department to present its evidence at the hearing.

It is not anticipated that adoption of the proposed rules will result in the expenditure of public monies by local bodies of government to implement the rules for the two years immediately following their adoption within the meaning of Minn. Stat. § 15.0412, subd. 7 (1978).

Minn. Stat. ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in Minn. Stat. § 10A.01, subd. 11 (1979 Supp.) as any individual:

a. Engaged for pay or other consideration, of authorized by another individual or association to spend money, who spends more than five hours in any month of more than $250, not including *his own* travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative

action by communicating or urging others to communicate with public officials; or

b. Whe spends more than $250, not including *his own* expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, Saint Paul, Minnesota 55155, telephone (612)296-5615.

Dated this 1st day of October, 1980

for Richard P. Braun
Commissioner

Subscribed and sworn to before me
this 1st day of October, 1980.

Notary Public,
Ramsey County, Minnesota.

COLETTE E. PROKOP
NOTARY PUBLIC—MINNESOTA
RAMSEY COUNTY
My Comm. Expires Sep. 13, 1986

DOT Exh. No. 4
File No. DOT-81-007-01
Date 12/2/81

STATE OF MINNESOTA

RECEIVED
OCT 31 1980
OFFICE OF HEARING EXAMINERS

DEPARTMENT OF TRANSPORTATION

In the Matter of the Proposed Adoption of Rules of the Department of Transportation Relating to Operating Standards for Special Transportation Services	)	AFFIDAVIT OF MAILING

Kenneth H. Bjork, being first duly sworn, deposes and says:

That on the 24th day of October, 1980, at the City of St. Paul, County of Ramsey, State of Minnesota, he served the attached Notice of Hearing by depositing in the United States mail at said City of St. Paul, a true and correct copy thereof, properly enveloped, with postage prepaid, to all persons and associations at the addresses listed, attached, who have placed their names on file with the department for that purpose and other persons known to have an interest in this proceeding.

Kenneth H. Bjork

Subscribed and sworn to before me
this 24th day of October, 1980.

NOTARY PUBLIC

Colette E. Prokop

My Commission expires:

9-13-86

COLETTE E. PROKOP
NOTARY PUBLIC—MINNESOTA
RAMSEY COUNTY
My Comm. Expires Sep. 13, 1986

Advocates for the Bl[illegible]d
1821 Univ. Ave. Rm 389 So.
St. Paul, MN 55104

Ackland, K. Crim Just Coun.
1422 City Hall Annex
St. Paul, MN 55102

D. H. Thomsen, Director - Signal Engr.
Burlington Northern Incorporated
176 East Fifth Street
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C. Blaine Harstad
Harstad & Rainbow Attorneys at Law
1036 Midland Bank Building
Minneapolis, Minnesota 55401

ShuBur Aero, Incorporated
112 - 7th Street N.E.
Rochester, Minnesota 55901

Conrad M. Fredin
Attorney at Law
811 First National Bank Building
Duluth, Minnesota 55802

Mary Durward, Regional Planner
Arrowhead Regional Development Commission
200 Arrowhead Place
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R. J. Barto, Plant Manager
Midland Glass Company, Incorporated
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Shakopee, Minnesota 55379

Jean Dawson, Editor
The Minnesota Government Report
B-12, Press Room
State Capitol Building-INTEROFFICE MAIL

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Julie Setnosky, Librarian
Hennepin County Government Center C-2359
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Minneapolis, Minnesota 55487

Ruth Saari, State Secretary - Minn. Divn.
The Izaak Walton League Of America, Inc.
111 East Franklin Avenue - Suite 200
Minneapolis, Minnesota 55404

The Minnesota Chapter of
Associated Builders and Contractors, Inc.
6300 Walker St., Suite 109,(Highway 7 at Woodale)
Mpls, Minnesota 55416

Thomas M. Poel
Attorney at Law
McCarthy Building
Eyota, MN 55934

President
Interstate Power Company
1000 Main Street
Dubuque, Iowa 52001

Phillips Legislative Service, Inc.
459 Rice Street
St. Paul, MN 55103

D.V. Sartore
Chief Engineer Design
Burlington NOrthern Inc.
176 East Fifth Street (Room 1280)
St. Paul, Minnesota 55101

R. J. Lavell, Deputy Commissioner
Department of Veterans Affairs
Veterans Service Building
INTER-OFFICE MAIL

Kent E. Eklund, Commissioner
Minn. Dept. Economic Development
480 Cedar Street
INTER-OFFICE MAIL

Bonnie Bannanno
Office of Administrative Hearings
Room 300 - 1745 University Avenue
INTER-OFFICE MAIL

Abe Rosenthal, Exec. Vice Pres.
Minnesota Transport Services Assn.
1821 University Avenue
St. Paul, Minnesota 55104

Jones, Haugh & Smith, Inc.
Consulting Engineers
515 South Washington
Albert Lea, MN 56007

Mr. John A. Knapp
Hessian, McKasy & Soderberg, P.A.
1500 Midwest Plaza Bldg.
Mpls, MN 55402

Mr. C.E. Matson
2368 Joy Avenue
White Bear Lake, Minnesota
55110

James Pomeroy - Transit Coordinator
City of Winona, City Hall
4th & Lafayette St.
Winona, MN 55987

Diane Vosick, Legislative Consultant
111 E. Franklin Avenue (210)
Mpls, MN 55404

Robert S. Morgan, P.E.
Planning and Programming Engineer
Mpls Public Works Dept.
A-1800 Government Center
Mpls, MN 55487

James C. Shipman
Executive Director
Association of Minnesota Counties
2305 Ford Parkway
ST. Paul, MN 55116

Robert Bollant, Dir. Public Works
City of Winona - City Hall
4th & Lafayette St.
Winona, Minnesota 55987

Susan P. Robertson, Executive Director
Legis. Comm. to Review Admin. Rules
Room 430 - State Office Building
INTER-OFFICE MAIL

F. James Rybak, Ph.D., R&D, OEO
Minnesota Department Economic Security
690 American Center Building
INTER-OFFICE MAIL

James N. Denn
Minnesota Motor Transport Assn.
1821 University Avenue
St. Paul, Minnesota 55104

Mark G. Sexton, Planner
Tri County Community Action Program
404 N.E. 2nd Avenue
Little Falls, Minnesota 56345

Minn. Assn. of Health Care Facilities
Attn: Rick Carter
Suite 429, 2850 Metro Drive
Minneapolis, Minnesota 55420

Margaret Sandberg
Office of Community Development
Minnesota Department of Health
INTER-OFFICE MAIL

Director
Developmental Disabilities Planning Off
Minnesota State Planning Agency
200 Capitol Square Bldg.
INTER-OFFICE MAIL

Charles Schaffer
Minn. Dept. of Economic Development
480 Cedar Street
INTER-OFFICE MAIL

Richard C. Busko
Minn. Dept. Economic Development
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Gordon Forbes - Counsel
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Associate Director
Mpls Association for Retarded Citizens
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Mpls, Minnesota 55404

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Olson, Gunn and Seran, Ltd.
315 Peavey Building
730 Second Avenue South
Mpls, MN 55402

Executive Secretary
Minnesota Board of Pharmacy
SE #351

Janice M. Devens, Director
Human Service Agency
Wright County
Wright County Court House
Buffalo, Minnesota 55313

Richard C. Lockwood, President
Mac Arthur Co.
2400 Wycliff Street
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Robert A. Silvagne- Envirn. Engineer
U of M Physical Plant Dept.
200 Shops Bldg.
319 15th Ave. S.E.
Mpls, MN 55455

Advocate for the Blind
1821 University Ave., 389S
St. Paul, Minnesota 55104

Peter S. Popovich
Peterson, Popovich, Knutson & Flynn, P.A
314 Minnesota Building
St. Paul, Minnesota 55101

General Mills, Inc.
Attn: J.W. Haun
P.O. Box 1113
Mpls, Mn 55440

Herbert O. Klossner, P.E.
Department of Transportation
Hennepin County
320 Wahsington Ave. South
Hopkins, Mn 55343

Bob Franklin, City Editor
Minneapolis Tribune
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Mpls, Mn 55488

G.V. Welk, Manager
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Northern States Power Co.
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J.B. Van de North, Jr.
Briggs & Morgan
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St. Paul, MN 55151

Ramsey County Public Works Dept.
167 Courthouse
St. Paul,MN 55102

John G. Pidgeon
City Manager
City of Bloomington
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Bloomington, Minnesota 55431

Robert A. Mood
Building & Inspection Section
City of Bloomington
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Bloomington, Mn 55431

Frank Mixa
Executive Director
Lake Minnetonka Conservation District
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Herbert W. Meyer
City Manager's Office
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Director of Public Works
City of Bloomington
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Metropolitan Interstate Committee
200 Arrowhead Place
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Marylee Fithian
Executive Director
Oden & Associates
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Amalgamated Transit Union, Div.,
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Sommers, Gene R.
414 Nicollet Mall
Mpls, MN 55422

Rahr, Frederick
8301 West 108th Street
Bloomington,MN
55438

Port Authority of City of St Paul
60 East 4th Street
St Paul, MN 55101

Pooler, Albert L.
Mn Gas Co.
733 Marquette Avenue
Mpls, MN 55402

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1160 Northwestern Bank Bldg.
Mpls, MN 55402

Logman, F.F. Swift & Co.
So St Paul, MN 55075

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514 First Nat'l Bank Bldg.
Fargo, N.D. 58102

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Brotherhood Rwy. Clks.
2317 West 7th Street
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Roger Herdt
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Great Northern Railway Company
Law Dept., Rm 1120
175 East 4th Street
St. Paul, MN 55101

Greater Mpls Chamber of Commerce
(Traffic Dept.)
15 South 5th Street
Mpls, MN 55402

Shields, J.B.
Driver Ed. Range
1000 N Snelling Ave.
St. Paul, MN 55108

St. Paul Motorcycle Escort Club Inc.
P.O. Box 3264
St. Paul, MN 55101

Perley A. Thomas
Car Works, Inc.
Attn: Carroll Graham
High Point, North Carolina

Nelson-Zepper
9150 Central Avenue NE
Blaine, Minnesota 55434

Morgan, Bob
A-1800 Government Center
Minneapolis, MN 55487

Minnesota School Bus Operators Ass.
Faribault, MN 55021

Matthias, Dr. Howard
329 Brown Hall
St. Cloud State College
St. Cloud, MN 56301

Hoglund United Sales, Inc.
South Hwy. 25
Monticello, MN

Higgens, J.C.
Brotherhood Rwy. Clks
2317 W. 7th Street
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Fred Fischer Dan Dugan Transport Co.
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55 East 5th Street
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805 Jeffries
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C.L. Bowar
Minnesota AAA
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Adm., Transportation &
Communication Service
Washington, D.C. 20405

Anderson Trucking Service, Inc.
203 Cooper Avneue North
St. Cloud, Mn 56301

United WEst End-Citizens Organization
2904 W. 3rd St.
Duluth, MN 55806

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1234 Soo Line Bldg.
Mpls, MN

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E. F. Johnson Company
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Waseca, MN 56093

Burton, Wendel
3M Company
3M Center
St. Paul, MN 55101

Blake, Duane
400 Midland Bank Bldg.
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Bowa[illegible] C.L.
Minnesota AAA
Burnsville, MN 55378

Association of Casualty and Surety Executives
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New York, NY

Conroy, Frank
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Ubel, Frank
3M Company
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Sperry-Univac
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Charles Aerial Spray
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Call, O'Wild Air
Route 5
Mankato Airport
Mankato, MN 56001

Brainerd-Crow Wing Co.
Airport Commission
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Bohman Airways, Inc.
Island View Route
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619 South Saratoga
St. Paul, MN 55116

Biske, Donal L.
Winsted Municipal Airport
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Bergemann Aerial Crop Service
Routel, Box 114
Garden City, MN 56034

Benson Flying Service
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B & J Aerial Spray Service
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Elmo Aero, Inc.
Lake Elmo Airport
Lake Elmo, MN 55042

Ekstrom, Reynold
Route 2
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Orr Public Airport
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Nord, Terry
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Crookston Flying Service Inc.
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Fleming Field
So. St. Paul, MN 55075

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Hector Airport
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Elbow Lake, MN

Red Baron Flyers
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Gunflint, Lake
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Arrowhead Reg. Dev. Comm.
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Duluth, MN 55802

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CHASKA, MN 55318

CITY OF CHANHASSEN
7610 LAREDO
CHANHASSEN, MN 55317

CITY OF CHAMPLIN
12001 HWY 52
CHAMPLIN, MN 55316

CITY OF CAMBRIDGE
139 E FIRST AVE
CAMBRIDGE, MN 55008

CITY OF BURNSVILLE
1313 E HWY 13
BURNSVILLE, MN 55337

CITY OF BROOKLYN PARK
5800 85TH AVE NO
BROOKLYN PARK, MN 55443

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6301 SHINGLE CREEK PKWY
BROOKLYN CTR, MN 55430

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CITY HALL
BRECKENRIDGE, MN 56520

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37 WASHINGTON AVE. WEST
HUTCHINSON, MN 55350

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100 SIBLEY ST
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CITY OF GOLDEN VALLEY
7800 GOLDEN VALLEY RD
GOLDEN VALLEY, MN 55427

CITY OF EDINA
4801 W 50TH ST
EDINA, MN 55424

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8950 EDEN PRIAIRE RD
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PO BOX 453
E GRAND FORKS, MN 46721

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2751 VIKING BLVD NE
WYOMING, MN 55092

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3795 PILOT KNOB ROAD
EAGAN, MN 55122

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CITY HALL
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DETROIT LAKES, MN 56501

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600 RICE STREET
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CITY HALL
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445 CITY HALL
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3801 66TH AVE NO
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CITY OF ST CLOUD
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1380 FROST AVE.
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CITY OF MAPLE GROVE
9401 FERNBROOK LANE
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CITY OF ROSEMOUNT
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CITY OF LAKE INDEPENDENCE
RT 1 BOX 123A
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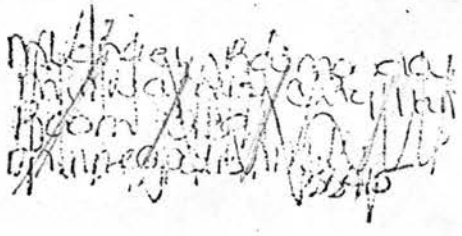

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DoT Exh. No. 6
File No. DOT-81-07-GB
Date 12/2/80

RECEIVED
NOV / 1980
OFFICE OF HEARING EXAMINERS

STATE OF MINNESOTA

DEPARTMENT OF TRANSPORTATION

In the Matter of the Proposed)
Adoption of Rules of the Dep-)
artment of Transportation Re-)
lating to Operating Standards)
for Special Transportation)
Service.)

AFFIDAVIT OF ADDITIONAL NOTICE

Kenneth H. Bjork, Manager - Administrative Procedures and Documentation Section, being duly sworn on oath deposes and says:

1) That he is an employee of the Department of Transportation, State of Minnesota;

2) That in addition to persons who have registered their names with the Department of Transportation for the purpose of receiving Notice of Public Hearing, pursuant to Minn. Stat. § 15.0412, subd. 4, on proposed rules on the subject captioned above, on October 24, 1980 additonal notice was mailed to all persons who were registered with the Secretary of State on July 31, 1980 for the same purpose, and to persons known to have an interest in this proceeding.

Further affiant sayeth not.

Dated this 6th day of November, 1980.

AFFIANT

Kenneth H. Bjork

Subscribed and sworn to before me this 6th day of November, 1980.

Colette E. Prokop Notary Public

Ramsey, County, Minnesota.

My Commission expires 9-13-86.

COLETTE E. PROKOP
NOTARY PUBLIC—MINNESOTA
RAMSEY COUNTY
My Comm. Expires Sep. 13, 1986

DoT Exh. No. 5
File No. MCT-81-07-01
Date 12/2/80

STATE OF MINNESOTA

DEPARTMENT OF TRANSPORTATION

RECEIVED
NOV / 1980
OFFICE OF HEARING EXAMINERS

In the Matter of the Proposed Adoption of Rules of the Department of Transortation Relating to Operating Standards for Special Transportation Service.

CERTIFICATE AS TO COMPLETENESS OF MAILING LIST

I, Kenneth H. Bjork, Manager Administrative Procedures and Documentation Section, do certify that attached and included in the Affidavit of Mailing of the Notice to all persons on the Department of Transportation mailing list, there is a complete list of persons, associations, and other interested groups who as of 4:00 P.M., October 24, 1980 requested pursuant to Minn. Stat. § 15.0412, subd. 4 that their names be placed on file with the Commissioner of Transportation for the purpose of receiving notice of public hearing on proposed rules on the subject captioned above.

Dated this 6th day of November, 1980.

AFFIANT

Kenneth H. Bjork

Subscribed and sworn to before me this 6th day of November, 1980.

Colette E. Prokop Notary Public

Ramsey, County, Minnesota.

My Commission expires 9-13-86.

COLETTE E. PROKOP
NOTARY PUBLIC—MINNESOTA
RAMSEY COUNTY
My Comm. Expires Sep. 13, 1986

Department of Transportation

Division of Public Transportation

Operating Standards for Special Transportation Service

Rules as Proposed (all new material)

14 MCAR § 1.7001 Scope.

A. These standards apply to special transportation service provided on a regular basis by a public or private person that is designed exclusively or primarily to serve individuals who are elderly, handicapped, disabled or economically disadvantaged and who are unable to use regular means of transportation.

B. These standards do not apply to transportation provided by:

1. A common carrier operating on fixed routes and schedules;

2. A taxi;

3. A volunteer driver using a private automobile which belongs to the volunteer;

4. A school bus as defined in Minn. Stat. § 169.01, subd. 6; or

5. An ambulance regulated under Minn. Stat. Ch. 144. However, these standards shall apply to ambulances when they are providing special transportation services.

14 MCAR § 1.7002 Authority.

These standards are adopted pursuant to the requirements of Laws of 1979, Ex. Sess. Ch. 1, Sec. 28, subds. 2 and 5, now codified as Minn. Stat., 1979 Supp., § 174.30, subds. 2 and 5.

14 MCAR § 1.7003 Definitions.

A. "Ambulance" has the meaning given to it in Minn. Stat. § 144.801, subd. 2.

B. "Commissioner" means the commissioner of transportation.

C. "Common carrier" means a regular route common carrier operating on fixed routes and schedules as defined in Minn. Stat. § 221.011, subd. 9.

D. "Disabled" means handicapped.

E. "Economically disadvantaged" means eligible for any form of public assistance provided for by state law.

F. "Elderly" means age 55 and older.

G. "Handicapped" means having a physical or mental impairment that limits one or more major life activities.

H. "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

I. "Motor vehicle" has the meaning given to it in Minn. Stat. § 169.01 subd. 3.

J. "Municipality" has the meaning given to it in Minn. Stat. § 466.01, subd. 1.

K. "Person" means every natural person, firm, partnership, corporation, association and body politic.

L. "Physical or mental impairment" means any physiological disorder or condition or anatomical loss; any mental or psychological disorder and specific learning disabilities and includes but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, epilepsy, muscular distrophy, multiple sclerosis, cancer, heart disease, mental retardation, emotional illness, drug addiction and alcoholism.

M. "Provider" means a public or private entity or person who operates special transportation service vehicles.

N. "Regular basis" means providing more than 12 round trips per month in a single vehicle or transporting more than 30 passengers per month, whichever is less.

O. "School bus" has the meaning given to it in Minn. Stat. § 169.01, subd. 6.

P. "Semi-ambulatory" means having the ability to walk with difficulty and with the aid of a prosthetic or orthotic device.

Q. "Special transportation service" means motor vehicle transportation provided on a regular basis by a public or private person that is designed exclusively or primarily to serve individuals who are elderly, handicapped, disabled or economically disadvantaged and who are unable to use regular means of transportation.

R. "State" has the meaning given to it in Minn. Stat. § 3.732, subd. 1(1).

S. "Variance" means permission to comply in a manner other than that specified.

T. "Vehicle" means a motor vehicle used to provide special transportation service.

14 MCAR § 1.7004 Compliance.

A. No person shall provide special transportation service without a current annual certificate of compliance issued by the commissioner.

1. A certificate of compliance shall be issued when the standards set forth in these rules have been met.

2. A certificate of compliance shall be issued to a provider who transports an occupied wheelchair in a vehicle only if the vehicle has been issued a current numbered certificate by the commissioner of public safety pursuant to Minn. Stat. § 299A.14.

B. No special transportation service provider shall provide, offer to provide or represent itself as capable of providing life support transportation service unless it is licensed as required by Minn. Stat. § 144.802.

14 MCAR § 1.7005 Certification.

A. Application for a certificate of compliance shall be made on forms provided by the commissioner. Application forms for certificates of compliance may be obtained from any Minnesota Department of Transportation district office. All applications shall be delivered or mailed to the Minnesota Department of Transportation, Division of Public Transportation, Transportation Building, St. Paul, Minnesota 55155.

B. Applicants shall submit the following information to the commissioner:

1. A provider application form containing the following information:

a. whether the application is new or a renewal;

b. the name, address, telephone number and area served by the provider;

c. the type of service provided, such as fixed route, route deviation, dial a ride, variable schedule, fixed schedule or other;

d. the category of passengers served (elderly, handicapped, disabled or economically disadvantaged);

e. for each vehicle:

(1) make and year;

(2) seating capacity;

(3) completed checklists showing whether each vehicle carries the safety equipment required by 14 MCAR § 1.7009 B. 1;

f. if the vehicle will carry an occupied wheelchair:

(1) whether the vehicle is equipped with an approved wheelchair securement device;

(2) the date that the wheelchair securement device was approved by the commissioner of public safety and the number on the certificate issued by the commissioner of public safety;

g. the name and title of the person who is responsible for the provider's special transportation service;

h. the name and address of each driver, stating whether each complies with the standards set forth in these rules.

2. A certificate of insurance which shall be mailed to the Department of Transportation by the applicant's insurer.

C. A certificate of compliance shall be granted when the commissioner determines that the applicant complies with the standards set forth in these rules.

D. All applications shall be processed and a certificate of compliance issued or denied in writing within thirty days of the receipt of the complete application by the commissioner and receipt of the certificate of insurance.

E. When a certificate is granted, the provider shall be issued a numbered certificate of compliance which lists each certified vehicle and shows the month and year in which the certification expires.

F. The commissioner shall maintain a record of all certificates of compliance showing the date issued, renewed or revoked.

14 MCAR § 1.7006 Renewal.

A. Thirty to sixty days prior to the expiration of any certificate of compliance, the provider shall request renewal of the certificate on a form provided by the commissioner.

B. The commissioner shall grant or deny requests for renewal in writing prior to the expiration date of the current certificate.

C. A new certificate listing each certified vehicle and showing the month and year in which the certification expires shall be issued to the provider.

14 MCAR § 1.7007 Inspection.

A. Upon receipt of a complaint that any certified provider does not comply with the standards set forth in these rules, the commissioner shall conduct an inspection of the provider's records and vehicles. The inspection shall be conducted within four weeks of receipt of the complaint.

B. All complaints shall be documented and a record maintained of the name and address of the person making the complaint, the date and reason for the complaint and the result of the inspection.

C. The commissioner shall notify any provider not less than 1 week in advance of an inspection and shall conduct the inspection at the provider's office or garage.

D. Inspections conducted under these standards shall comprise:

1. Examination of the records listed in 14 MCAR § 1.7011 A; and

2. Examination of the vehicles to determine whether the provider complies with the requirements of 14 MCAR § 1.7009 B.

E. Failure to permit an inspection as provided in this section shall be grounds for immediate suspension of the provider's certificate of compliance until the provider permits the inspection.

14 MCAR § 1.7008 Enforcement.

A. Any provider found in violation of any provision of these rules shall be given a thirty day written notice to correct the violation.

B. At the expiration of thirty days, the commissioner shall conduct an inspection to determine whether the violation has been corrected.

C. If the violation is not corrected within thirty days, the commissioner shall revoke the certificate of compliance after holding a hearing upon reasonable notice to the provider.

D. Any enforcement hearing conducted pursuant to these standards shall be conducted in accordance with Minn. Stat. Ch. 15.

14 MCAR § 1.7009 Standards for operation of vehicles.

A. Personnel.

1. No driver shall operate a special transportation service vehicle unless that driver:

a. has visual acuity of 20/40 in each eye corrected and a field of vision of at least seventy degrees in the horizontal meridian of each eye; and

b. does not have a hearing loss greater than thirty db in the better ear with or without a hearing aid; and

c. has no current medical condition which interferes with the ability to drive safely.

2. Every two years each driver shall obtain, on a form prescribed by the commissioner, a physician's statement that the driver has no current medical condition which interferes with his or her ability to drive safely. This shall be obtained prior to employment as a driver of a special transportation service vehicle.

3. Each driver, or an attendant in the case of a vehicle which is staffed by a driver and an attendant, shall be able to perform a vehicle safety inspection, assist a passenger into the vehicle and operate a wheelchair lift or ramp if the vehicle is equipped with it.

4. Each driver shall also meet the following criteria:

a. possess a Minnesota driver's license which is valid for the type of vehicle which he or she drives;

b. be at least eighteen years of age and have not less than one year of experience as a licensed driver; and

c. have a driving record clear of revocations, suspensions and cancellations for the past three years except for suspensions which result from unpaid parking tickets.

5. By January 1, 1982, each driver and attendant shall successfully complete a first aid or emergency care course of not less than four hours which shall include instruction in the following elements:

a. treatment of shock;

b. control of bleeding;

c. airway management;

d. prevention and treatment of frostbite and exposure to cold;

e. prevention and treatment of heat exhaustion and heat stroke;

f. identification of sudden illness such as stroke, heart attack, convulsions, fainting and seizures; and

g. appropriate use of emergency medical assistance services.

6. By January 1, 1982, each driver and attendant who transport passengers seated in wheelchairs or who assist passengers in transferring from a wheelchair to a vehicle shall complete a minimum of eight hours training in the techniques of transporting and assisting elderly and physically handicapped passengers which shall include instruction in the following elements:

a. discussion of characteristics of the aging process and major disabling conditions;

b. discussion of common assistive devices used by elderly and handicapped persons;

c. discussion of attitudes toward elderly and handicapped persons which includes the participation of handicapped and elderly persons;

d. instruction in methods of handling wheelchairs;

e. instruction in moving, lifting and transferring passengers;

f. guidelines for transporting handicapped persons; and

g. instruction in the operation of lifts, ramps and wheelchair securement devices if the vehicle to be operated is equipped with them.

7. By January 1, 1982, each driver and attendant who transport elderly and physically handicapped passengers who do not use wheelchairs or who transport passengers who do not transfer from a wheelchair to a seat in the vehicle shall complete a minimum of four hours training in the techniques of transporting and assisting elderly and physically handicapped passengers, which shall include instruction in the elements listed 14 MCAR § 1.7009 A. 6. a.,b.,c. and f.

8. Each driver and attendant shall receive instruction in the use of the fire extinguisher.

9. A driver or attendant hired after October 1, 1981, who has not completed the required training prior to providing special transportation service, shall do so within ninety days after beginning to provide such service. Copies of certificates indicating successful completion of courses shall be maintained in the provider's files.

10. Each driver and attendant must successfully complete a refresher first aid or emergency care course every three years. The refresher course shall include instruction in the elements listed in 14 MCAR § 1.7009 A. 5.

B. Equipment.

1. Each vehicle when in use shall carry the following safety equipment:

a. one five pound, dry chemical fire extinguisher, A:B:C type, bearing a tag indicating that it has been serviced within the preceding year;

b. an emergency first aid kit in a dustproof container, labeled "FIRST AID", and stored in a location visible to the driver. The kit shall contain at least the following items:

(1) six - 4" x 4" sterile gauze pads;

(2) two - soft roll bandages 6" x 5 yards;

(3) adhesive tape; and

(4) scissors;

c. a spare tire and jack unless the vehicle is radio-equipped and the provider has a service contract which enables him to summon assistance to change the tire or to summon a substitute vehicle;

d. an operable flashlight;

e. if a vehicle carries children who weigh less than fifty pounds, there shall be available in the vehicle a child restraint system which meets the requirements of federal motor vehicle safety standard no. 213, 49 C.F.R. § 571.213;

f. three emergency warning triangles. Both faces of each triangle shall consist of red reflective and orange fluorescent material. Each of the three sides of the triangular device shall be seventeen to twenty-two inches long and shall be two to three inches wide. The units shall be kept clean and in good repair and stored so as to be readily available when needed;

g. from October 1 to April 30, each vehicle shall carry an ice scraper and a blanket;

h. all vehicles with interior fuse boxes shall carry extra electrical fuses.

2. All seats shall be securely fastened to the floor or frame of the vehicle and all vehicles purchased after January 1, 1981 shall have a usable seat belt for each person being transported and for the driver.

3. All ramps shall have a slip-proof surface to provide traction and one end of the ramp shall be secured to the floor of the vehicle when the ramp is in use.

4. A vehicle which is equipped with a wheelchair lift and which carries semi-ambulatory persons who use the wheelchair lift shall be equipped with either a wheelchair lift with adjustable or removable railings which are thirty-six inches high on two sides of the lift or with a folding wheelchair stored on the vehicle when it is in use.

5. Vehicles which carry occupied stretchers or litters shall comply with securement device requirements of the Minnesota Department of Health contained in 7 MCAR § 1.603 C. 4. and C. 1. b.

C. Operation.

1. All vehicles shall be maintained and operated in compliance with Minn. Stat. Ch. 169 and rules adopted pursuant to that chapter.

2. All providers shall conduct or cause to be conducted, a daily visual safety inspection of the following items:

a. coolant level;

b. lights, turn signals, hazard flashers;

c. tires;

d. windshield wipers and washer fluid;

e. mirrors;

f. fuel level.

3. All providers shall conduct or cause to be conducted a vehicle safety inspection once each a week or every 1000 miles, whichever comes first. The date and mileage at each safety inspection and a notation of needed repairs and replacements shall be made in a driver's logbook which shall be maintained in the vehicle or in the provider's files. The safety inspection shall include inspection of the following items:

a. coolant level;

b. oil level;

c. lights, turn signals, hazard flashers;

d. tires and tire pressure;

e. brake, parking brake and brake fluid level, if visible in the engine compartment;

f. instrument panel;

g. horn;

h. windshield wipers and washer fluid;

i. fan belt;

j. mirrors, inside and outside;

k. wheelchair ramps and lifts and lift electrical systems, if applicable; and

l. wheelchair or stretcher securement device, if applicable.

4. Smoking shall be prohibited in vehicles at all times. A sign stating "NO SMOKING" shall be posted in the vehicle so that it is visible to all passengers.

5. Drivers and passengers shall use seat belts at all times in vehicles which are equipped with them and drivers shall instruct each passenger to use the seat belt. Children who weigh less than fifty pounds shall use approved child restraint systems at all times.

6. When any vehicle is stopped for any emergency purpose or is disabled on the roadway or shoulder of any highway outside a business or residence district during the time when lighted lamps must be displayed, the driver shall promptly place an emergency warning triangle on the roadway on the traffic side of the vehicle ten feet from the vehicle in the direction of approaching traffic. A second emergency warning triangle shall be placed approximately 100 feet from the vehicle in the direction of approaching traffic. If the vehicle is stopped or disabled on any one-way roadway, the driver shall place an additional warning triangle approximately 200 feet from the vehicle in the direction of approaching traffic.

D. Maintenance.

1. All vehicles shall be maintained in accordance with the manufacturer's recommended maintenance schedule or an improved schedule based on actual vehicle operating conditions.

2. Providers shall correct any deficiency which might interfere with the safe operation of the vehicle before the vehicle is placed in service.

3. Windows and lights shall be kept clean.

4. Interior of vehicles shall be clean and in good repair.

14 MCAR § 1.7010 Insurance

A. Each provider shall have in effect an insurance plan which provides the following minimum coverage for each vehicle:

1. Basic economic loss benefits as required by Minn. Stat. Ch. 65B;

2. Residual liability coverage in the following minimum amounts:

a. private providers; $100,000 for bodily injury to, or death of any one person in a single accident, subject to a maximum of $300,000 for bodily injuries to, or the death of two or more persons in a single accident, and $50,000 for destruction of, or damage to property in a single accident, or if the policy is written on a single limit basis, $300,000 per occurrence;

b. municipalities; $100,000 for bodily injury to, or death of any one person in a single accident, subject to a maximum of $300,000 for bodily injury to, or death of two or more persons in a single accident, and $50,000 for destruction of, or damage to property in a single accident;

c. the state; $100,000 for bodily injury to, or death of any one person in a single accident, subject to a maximum of $500,000 for bodily injury to, or death of two or more persons in a single accident, and $100,000 for destruction of, or damage to property in a single accident;

3. uninsured motorist coverage as required by Minn. Stat. ch. 65B.

B. Each provider shall obtain a certificate of insurance for the special transportation service vehicles which it operates. The provider's insurer shall mail the certificate of insurance to the Minnesota Department of Transportation, Division of Public Transportation, Transportation Building, St. Paul, Minnesota 55155. The certificate shall show the vehicles covered by the policy and the policy limits. The insurer shall notify the department in writing ten days prior to the termination of coverage by either party.

C. A provider shall qualify as a self-insurer by providing evidence that it has complied with the requirements of Minn. Stat. § 65B.48, subd. 3.

14 MCAR § 1.7011 Records.

A. Each provider shall maintain files containing the following information:

1. For each driver, a driver's application form which contains the following information:

a. the name, address and birthdate of the driver;

b. the driver license number and the class of the license;

c. whether the driver has had at least one year of driving experience;

d. whether the driver's license has been revoked, suspended or cancelled within the three year period prior to this application;

e. the date on which the driver successfully completed at least four hours of training in first aid as required by 14 MCAR § 1.7009 A. 5.;

f. the date on which the driver successfully completed training in the techniques of transporting and assisting elderly and physically handicapped passengers as required by 14 MCAR § 1.7009 A. 6. or 7. whichever is applicable;

g. the date and location at which driver was trained in the use of the fire extinguisher;

2. For each driver, the physician's statement, that the driver has no current medical condition which interferes with his or her ability to drive safely.

3. For each attendant, an attendant's application form which contains the following information:

a. the name and address of the attendant;

b. the date on which the attendant successfully completed at least fours of training in first aid as required by 14 MCAR § 1.7009 A. 5;

c. the date on which the attendant successfully completed training in the techniques of transporting and assisting elderly and physically handicapped passengers as required by 14 MCAR § 1.7009 A. 6 or 7. whichever is applicable;

d. the date and location at which the attendant was trained in the use of the fire extinguisher;

4. All correspondence with the commissioner, including the certificate of compliance;

5. All accident reports;

6. A record of all insurance claims arising from the operation of the vehicle;

7. Service records for each vehicle indicating the date, the odometer reading and the nature of the repair or replacement each time the vehicle was serviced;

8. The driver's logbook for each vehicle, unless the logbook is maintained in the vehicle.

B. The following documents shall be maintained in each vehicle:

1. A card showing the name of the insurance company which insures the vehicle and the telephone number of the insurance agent;

2. Accident report forms;

3. A card showing local emergency telephone numbers.

14 MCAR § 1.7012 Certification of training courses.

A. All training courses shall be approved by the commissioner prior to being offered to fulfill the requirements of these rules.

B. The application for approval of a training course shall be made on a form prescribed by the commissioner. A course shall be approved if it meets the following minimum standards:

1. It shall include instruction in the elements required by these standards;

2. The application shall specify when and where the instructor has previously taught the course;

3. The name, address, employment and relevant training of the instructor must be shown;

4. The name and address of any institution which is sponsoring the course must be shown.

C. Instructors.

1. A first aid course shall be taught by any person who is a licensed physician, registered nurse, licensed practical nurse, a paramedic, an emergency medical technician or a certified first aid instructor.

2. Passenger assistance technique training shall be taught by any person who is a licensed physician, registered nurse, registered physical therapist, registered occupational therapist, public health nurse or other health professional who has had work experience with physical disabilities, aging and communication disorders or by a team which includes one of those persons.

D. Applications for approval of training courses shall be granted or denied in writing by the commissioner within thirty days of receipt of the complete application.

14 MCAR § 1.7013 Variance.

A. The commissioner may grant a variance from any of these rules except 14 MCAR § 1.7004.

1. A variance shall be granted if the applicant shows that:

a. the rationale for the rule or rules in question can be met or exceeded by the specific alternative practice which the applicant proposes to substitute;

b. the application of the rule in question would impose an excessive burden on the applicant; and

c. the granting of the variance will not adversely affect the public health and safety.

2. The commissioner shall set forth in writing his reasons for granting or denying the variance.

3. Any special transportation service provider that is granted a variance shall comply with the alternative practice specified in its successful application for a variance.

4. Any special transportation service provider that has been granted a variance shall immediately notify the Department of Transportation if any material change occurs in the circumstances which justified granting the variance.

5. A variance shall be revoked if a material change occurs in the circumstances which justified granting the variance, or if the applicant fails to comply with the alternative practice specified in the application for a variance.

14 MCAR § 1.7014 to 1.7050 Reserved for future use.

C. The State Director of Equal Employment Opportunity shall approve an agency plan which meets the requirements of the foregoing rules and shall indicate the basis on which an agency affirmative action plan was not approved.

D. An agency affirmative action plan that is not approved by the State Director of Equal Employment Opportunity shall be modified as necessary by the agency head and resubmitted to the State Director of Equal Employment Opportunity within thirty (30) days from the date of notification.

E. The State Director of Equal Employment Opportunity shall respond within ten (10) days of receipt of the resubmitted affirmative action plan.

2 MCAR § 2.295 Reporting requirements.

A. Agency heads with twenty-five (25) or more employees shall submit quarterly to the Commissioner a report of the agency's efforts to meet affirmative action goals and the progress resulting from those efforts.

B. Agency heads with fewer than twenty-five (25) employees shall submit semi-annually to the commissioner a report of the agency's efforts to meet affirmative action objectives and the progress resulting from those efforts.

C. Reports shall be due thirty (30) days following the close of the reporting period.

D. Agency heads shall submit biennially to the Governor and to the Legislature with a copy to the commissioner a report on the implementation of the agency affirmative action plan as part of the agency budget request.

Department of Transportation

Proposed Rules Relating to Operating Standards for Special Transportation Service

Notice of Hearing

Notice is hereby given that a public hearing in the above entitled matter will be held pursuant to Minn. Stat. § 15.0412, subd. 4 (1978) in Room 81, State Office Building (between Aurora and Fuller), St. Paul, Minnesota on December 2, 1980, at 10:00 A.M.

The statutory authority of the Department of Transportation to adopt these rules is provided in Minn. Stat. § 15.0412, subd. 3, and Minn. Stat. § 174.30, subds. 2 and 5 (1979 Supp.).

The proposed rules, if adopted, would establish the scope of the rules and provide definitions for terms used therein and would:

1. Require an annual Certificate of Compliance for vehicles used to provide special transportation service—which service is generally defined as motor vehicle transportation provided:
   a. on a regular basis, and
   b. designed exclusively or primarily to serve individuals who are
      1. elderly (over the age of 55), or
      2. handicapped, or
      3. disabled, or
      4. economically disadvantaged, and
      5. unable to use regular means of transportation;
2. Establish standards and procedures for the issuance of Certificates of Compliance, including:
   a. provider qualification procedures,
   b. information to be provided by persons proposing to provide such service,
   c. evidence of certification,
   d. records to be kept by the State,
   e. time and manner of issuance of the Certificate.
3. Establish procedures for the renewal of Certificates of Compliance;

KEY: RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike-outs~~ indicate deletions from proposed rule language. **PROPOSED RULES SECTION** — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material."

4. Establish procedures for the inspection of provider records and vehicles upon complaint;

5. Establish enforcement procedures by which the Commissioner may revoke a Certificate of Compliance for persons found in violation of the rules;

6. Establish standards for the operation of vehicles used in the provision of special transportation services, including:

   a. driver training and qualifications

   b. physician's health certificate, and

   c. duties of driver or attendant, and;

7. Establish standards requiring certain safety equipment be carried on vehicles;

8. Establish standards for vehicle maintenance, operation, and safety inspection;

9. Establish standards requiring minimum insurance requirements and the filing of evidence of coverage with the State;

10. Establish standards for the form and maintenance of records by providers;

11. Establish standards for the certification of training courses, including:

   a. application for approval, and

   b. time and manner of approval, and

   c. qualifications of instructors, and

   d. curriculum.

12. Establish standards for granting variances and variance revocation procedures under these rules.

A copy of the rules is attached. Additional copies of the proposed rules are now available and one free copy may be obtained by writing to:

Peter A. Fausch
Assistant Commissioner for Planning
Minnesota Department of Transportation
413 Transportation Building
St. Paul, Minnesota 55155

The rules will be available at the door on the date of the hearing.

Notice is hereby given that twenty-five (25) days prior to the hearing a Statement of Need and Reasonableness will be available for review at the Department of Transportation address given immediately above and at the Office of Administrative Hearings. This Statement of Need and Reasonableness will include a summary of all of the evidence which will be presented by the Department at the hearing justifying both the need for and the reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be obtained from the Office of Administrative Hearings.

The proposed rules are subject to change as a result of the rule hearing process. The Department of Transportation therefore strongly urges those who may be affected by these proposed rules to participate in the rule hearing process.

All interested or affected persons will have an opportunity to participate concerning the adoption of proposed rules relating to operating standards for special transportation service. Statements may be made orally and written material may be submitted at the hearing. In addition, whether or not an appearance is made at the hearing, written statements or material may be submitted by mail to George A. Beck, Hearing Examiner, Office of Administrative Hearings, at Room 300, 1745 University Avenue, St. Paul, Minnesota 55104, telephone (612) 296-8108, either before the hearing or within five (5) working days after the close of the hearing. If so ordered by the Hearing Examiner, the hearing record may remain open and such materials may be submitted for a period longer than five (5) working days but not exceeding twenty (20) calendar days after the close of the hearing. All such statements and materials will be entered into and become a part of the record for this proceeding. The Department of Transportation hereby requests those submitting written statements to provide a duplicate copy of said materials to the departmental address above, if possible. The rule hearing procedure is governed by Minn. Stat. §§ 15.0411 to 15.0412 and § 15.052; as well as by 9 MCAR §§ 2.101 to 2.112 (Minnesota Code of Agency Rules). If you have any questions about the procedure, call or write the hearing examiner.

Any person may request notification of the date on which the Hearing Examiner's Report will be available, after which date the Department of Transportation may not take any final action on the rules for a period of five (5) working days. Any person may request notification of the date on which the hearing record has been submitted (or resubmitted) to the Attorney General by the Department of Transportation. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the hearing examiner (in the case of the Hearing Examiner's Report) or to the Department (in the case of the Department's submission or resubmission to the Attorney General).

The department expects that one hundred persons may attend the hearing and it estimates that one to two hours will be necessary for the department to present its evidence at the hearing.

It is not anticipated that adoption of the proposed rules will result in the expenditure of public monies by local bodies of government to implement the rules for the two years immediately following their adoption within the meaning of Minn. Stat. § 15.0412, subd. 7 (1978).

Minn. Stat. ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in Minn. Stat. § 10A.01, subd. 11 (1979 Supp.) as any individual:

a. Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250, not including *his own* travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

b. Who spends more than $250, not including *his own* expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, Saint Paul, Minnesota 55155, telephone (612) 296-5615.

October 1, 1980

Richard P. Braun
Commissioner of Transportation

Rules as Proposed (all new material)

14 MCAR § 1.7001 Scope.

A. These standards apply to special transportation service provided on a regular basis by a public or private person that is designed exclusively or primarily to serve individuals who are elderly, handicapped, disabled or economically disadvantaged and who are unable to use regular means of transportation.

B. These standards do not apply to transportation provided by:

1. A common carrier operating on fixed routes and schedules;

2. A taxi;

3. A volunteer driver using a private automobile which belongs to the volunteer;

4. A school bus as defined in Minn. Stat. § 169.01, subd. 6; or

5. An ambulance regulated under Minn. Stat. ch. 144. However, these standards shall apply to ambulances when they are providing special transportation services.

14 MCAR § 1.7002 Authority. These standards are adopted pursuant to the requirements of Laws of 1979, Ex. Sess., ch. 1, § 28, subds. 2 and 5, now codified as Minn. Stat. § 174.30, subds. 2 and 5 (1979 Supp.).

14 MCAR § 1.7003 Definitions.

A. "Ambulance" has the meaning given to it in Minn. Stat. § 144.801, subd. 2.

B. "Commissioner" means the commissioner of transportation.

C. "Common carrier" means a regular route common carrier operating on fixed routes and schedules as defined in Minn. Stat. § 221.011, subd. 9.

D. "Disabled" means handicapped.

E. "Economically disadvantaged" means eligible for any form of public assistance provided for by state law.

F. "Elderly" means age 55 and older.

G. "Handicapped" means having a physical or mental impairment that limits one or more major life activities.

H. "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

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I. "Motor vehicle" has the meaning given to it in Minn. Stat. § 169.01, subd. 3.

J. "Municipality" has the meaning given to it in Minn. Stat. § 466.01, subd. 1.

K. "Person" means every natural person, firm, partnership, corporation, association and body politic.

L. "Physical or mental impairment" means any physiological disorder or condition or anatomical loss; any mental or psychological disorder and specific learning disabilities and includes but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, mental retardation, emotional illness, drug addiction and alcoholism.

M. "Provider" means a public or private entity or person who operates special transportation service vehicles.

N. "Regular basis" means providing more than 12 round trips per month in a single vehicle or transporting more than 30 passengers per month, whichever is less.

O. "School bus" has the meaning given to it in Minn. Stat. § 169.01, subd. 6.

P. "Semi-ambulatory" means having the ability to walk with difficulty and with the aid of a prosthetic or orthotic device.

Q. "Special transportation service" means motor vehicle transportation provided on a regular basis by a public or private person that is designed exclusively or primarily to serve individuals who are elderly, handicapped, disabled or economically disadvantaged and who are unable to use regular means of transportation.

R. "State" has the meaning given to it in Minn. Stat. § 3.732, subd. 1(1).

S. "Variance" means permission to comply in a manner other than that specified.

T. "Vehicle" means a motor vehicle used to provide special transportation service.

14 MCAR § 1.7004 Compliance.

A. No person shall provide special transportation service without a current annual certificate of compliance issued by the commissioner.

1. A certificate of compliance shall be issued when the standards set forth in these rules have been met.

2. A certificate of compliance shall be issued to a provider who transports an occupied wheelchair in a vehicle only if the vehicle has been issued a current numbered certificate by the commissioner of public safety pursuant to Minn. Stat. § 299A.14.

B. No special transportation service provider shall provide, offer to provide or represent itself as capable of providing life support transportation service unless it is licensed as required by Minn. Stat. § 144.802.

14 MCAR § 1.7005 Certification.

A. Application for a certificate of compliance shall be made on forms provided by the commissioner. Application forms for certificates of compliance may be obtained from any Minnesota Department of Transportation district office. All applications shall be delivered or mailed to the Minnesota Department of Transportation, Division of Public Transportation, Transportation Building, St. Paul, Minnesota 55155.

B. Applicants shall submit the following information to the commissioner:

1. A provider application form containing the following information:

a. whether the application is new or a renewal;

b. the name, address, telephone number and area served by the provider;

c. the type of service provided, such as fixed route, route deviation, dial a ride, variable schedule, fixed schedule or other;

d. the category of passengers served (elderly, handicapped, disabled or economically disadvantaged);

e. for each vehicle:

(1) make and year;

(2) seating capacity;

(3) completed checklists showing whether each vehicle carries the safety equipment required by 14 MCAR § 1.7009 B.1.;

f. if the vehicle will carry an occupied wheelchair:

(1) whether the vehicle is equipped with an approved wheelchair securement device;

(2) the date that the wheelchair securement device was approved by the commissioner of public safety and the number on the certificate issued by the commissioner of public safety;

g. the name and title of the person who is responsible for the provider's special transportation service;

h. the name and address of each driver, stating whether each complies with the standards set forth in these rules.

2. A certificate of insurance which shall be mailed to the Department of Transportation by the applicant's insurer.

C. A certificate of compliance shall be granted when the commissioner determines that the applicant complies with the standards set forth in these rules.

D. All applications shall be processed and a certificate of compliance issued or denied in writing within thirty days of the receipt of the complete application by the commissioner and receipt of the certificate of insurance.

E. When a certificate is granted, the provider shall be issued a numbered certificate of compliance which lists each certified vehicle and shows the month and year in which the certification expires.

F. The commissioner shall maintain a record of all certificates of compliance showing the date issued, renewed or revoked.

14 MCAR § 1.7006 Renewal.

A. Thirty to sixty days prior to the expiration of any certificate of compliance, the provider shall request renewal of the certificate on a form provided by the commissioner.

B. The commissioner shall grant or deny requests for renewal in writing prior to the expiration date of the current certificate.

C. A new certificate listing each certified vehicle and showing the month and year in which the certification expires shall be issued to the provider.

14 MCAR § 1.7007 Inspection.

A. Upon receipt of a complaint that any certified provider does not comply with the standards set forth in these rules, the commissioner shall conduct an inspection of the provider's records and vehicles. The inspection shall be conducted within four weeks of receipt of the complaint.

B. All complaints shall be documented and a record maintained of the name and address of the person making the complaint, the date and reason for the complaint and the result of the inspection.

C. The commissioner shall notify any provider not less than 1 week in advance of an inspection and shall conduct the inspection at the provider's office or garage.

D. Inspections conducted under these standards shall comprise:

1. Examination of the records listed in 14 MCAR § 1.7011 A.; and

2. Examination of the vehicles to determine whether the provider complies with the requirements of 14 MCAR § 1.7009 B.

E. Failure to permit an inspection as provided in this section shall be grounds for immediate suspension of the provider's certificate of compliance until the provider permits the inspection.

14 MCAR § 1.7008 Enforcement.

A. Any provider found in violation of any provision of these rules shall be given a thirty day written notice to correct the violation.

B. At the expiration of thirty days, the commissioner shall conduct an inspection to determine whether the violation has been corrected.

C. If the violation is not corrected within thirty days, the commissioner shall revoke the certificate of compliance after holding a hearing upon reasonable notice to the provider.

D. Any enforcement hearing conducted pursuant to these standards shall be conducted in accordance with Minn. Stat. ch. 15.

14 MCAR § 1.7009 Standards for operation of vehicles.

A. Personnel.

1. No driver shall operate a special transportation service vehicle unless that driver:

a. has visual acuity of 20/40 in each eye corrected and a field of vision of at least seventy degrees in the horizontal meridian of each eye; and

b. does not have a hearing loss greater than thirty db in the better ear with or without a hearing aid; and

c. has no current medical condition which interferes with the ability to drive safely.

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2. Every two years each driver shall obtain, on a form prescribed by the commissioner, a physician's statement that the driver has no current medical condition which interferes with his or her ability to drive safely. This shall be obtained prior to employment as a driver of a special transportation service vehicle.

3. Each driver, or an attendant in the case of a vehicle which is staffed by a driver and an attendant, shall be able to perform a vehicle safety inspection, assist a passenger into the vehicle and operate a wheelchair lift or ramp if the vehicle is equipped with it.

4. Each driver shall also meet the following criteria:

a. possess a Minnesota driver's license which is valid for the type of vehicle which he or she drives;

b. be at least eighteen years of age and have not less than one year of experience as a licensed driver; and

c. have a driving record clear of revocations, suspensions and cancellations for the past three years except for suspensions which result from unpaid parking tickets.

5. By January 1, 1982, each driver and attendant shall successfully complete a first aid or emergency care course of not less than four hours which shall include instruction in the following elements:

a. treatment of shock;

b. control of bleeding;

c. airway management;

d. prevention and treatment of frostbite and exposure to cold;

e. prevention and treatment of heat exhaustion and heat stroke;

f. identification of sudden illness such as stroke, heart attack, convulsions, fainting and seizures; and

g. appropriate use of emergency medical assistance services.

6. By January 1, 1982, each driver and attendant who transport passengers seated in wheelchairs or who assist passengers in transferring from a wheelchair to a vehicle shall complete a minimum of eight hours training in the techniques of transporting and assisting elderly and physically handicapped passengers which shall include instruction in the following elements:

a. discussion of characteristics of the aging process and major disabling conditions;

b. discussion of common assistive devices used by elderly and handicapped persons;

c. discussion of attitudes toward elderly and handicapped persons which includes the participation of handicapped and elderly persons;

d. instruction in methods of handling wheelchairs;

e. instruction in moving, lifting and transferring passengers;

f. guidelines for transporting handicapped persons; and

g. instruction in the operation of lifts, ramps and wheelchair securement devices if the vehicle to be operated is equipped with them.

7. By January 1, 1982, each driver and attendant who transport elderly and physically handicapped passengers who do not use wheelchairs or who transport passengers who do not transfer from a wheelchair to a seat in the vehicle shall complete a minimum of four hours training in the techniques of transporting and assisting elderly and physically handicapped passengers, which shall include instruction in the elements listed in 14 MCAR § 1.7009 A.6.a., b., c. and f.

8. Each driver and attendant shall receive instruction in the use of the fire extinguisher.

9. A driver or attendant hired after October 1, 1981, who has not completed the required training prior to providing special transportation service, shall do so within ninety days after beginning to provide such service. Copies of certificates indicating successful completion of courses shall be maintained in the provider's files.

10. Each driver and attendant must successfully complete a refresher first aid or emergency care course every three years. The refresher course shall include instruction in the elements listed in 14 MCAR § 1.7009 A.5.

B. Equipment.

1. Each vehicle when in use shall carry the following safety equipment:

a. one five pound, dry chemical fire extinguisher, A:B:C type, bearing a tag indicating that it has been serviced within the preceding year;

b. an emergency first aid kit in a dustproof container, labeled "FIRST AID," and stored in a location visible to the driver. The kit shall contain at least the following items:

(1) six—4″ x 4″ sterile gauze pads;

(2) two—soft roll bandages 6″ x 5 yards;

(3) adhesive tape; and

(4) scissors;

c. a spare tire and jack unless the vehicle is radio-equipped and the provider has a service contract which enables him to summon assistance to change the tire or to summon a substitute vehicle;

d. an operable flashlight;

e. if a vehicle carries children who weigh less than fifty pounds, there shall be available in the vehicle a child restraint system which meets the requirements of federal motor vehicle safety standard no. 213, 49 C.F.R. § 571.213;

f. three emergency warning triangles. Both faces of each triangle shall consist of red reflective and orange fluorescent material. Each of the three sides of the triangular device shall be seventeen to twenty-two inches long and shall be two to three inches wide. The units shall be kept clean and in good repair and stored so as to be readily available when needed;

g. from October 1 to April 30, each vehicle shall carry an ice scraper and a blanket;

h. all vehicles with interior fuse boxes shall carry extra electrical fuses.

2. All seats shall be securely fastened to the floor or frame of the vehicle and all vehicles purchased after January 1, 1981 shall have a usable seat belt for each person being transported and for the driver.

3. All ramps shall have a slip-proof surface to provide traction and one end of the ramp shall be secured to the floor of the vehicle when the ramp is in use.

4. A vehicle which is equipped with a wheelchair lift and which carries semi-ambulatory persons who use the wheelchair lift shall be equipped with either a wheelchair lift with adjustable or removable railings which are thirty-six inches high on two sides of the lift or with a folding wheelchair stored on the vehicle when it is in use.

5. Vehicles which carry occupied stretchers or litters shall comply with securement device requirements of the Minnesota Department of Health contained in 7 MCAR § 1.603 C.4. and C.1.b.

C. Operation.

1. All vehicles shall be maintained and operated in compliance with Minn. Stat. ch. 169 and rules adopted pursuant to that chapter.

2. All providers shall conduct or cause to be conducted, a daily visual safety inspection of the following items:

a. coolant level;

b. lights, turn signals, hazard flashers;

c. tires;

d. windshield wipers and washer fluid;

e. mirrors;

f. fuel level.

3. All providers shall conduct or cause to be conducted a vehicle safety inspection once each week or every 1000 miles, whichever comes first. The date and mileage at each safety inspection and a notation of needed repairs and replacements shall be made in a driver's logbook which shall be maintained in the vehicle or in the provider's files. The safety inspection shall include inspection of the following items:

a. coolant level;

b. oil level;

c. lights, turn signals, hazard flashers;

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d. tires and tire pressure;

e. brake, parking brake and brake fluid level, if visible in the engine compartment;

f. instrument panel;

g. horn;

h. windshield wipers and washer fluid;

i. fan belt;

j. mirrors, inside and outside;

k. wheelchair ramps and lifts and lift electrical systems, if applicable; and

l. wheelchair or stretcher securement device, if applicable.

4. Smoking shall be prohibited in vehicles at all times. A sign stating "NO SMOKING" shall be posted in the vehicle so that it is visible to all passengers.

5. Drivers and passengers shall use seat belts at all times in vehicles which are equipped with them and drivers shall instruct each passenger to use the seat belt. Children who weigh less than fifty pounds shall use approved child restraint systems at all times.

6. When any vehicle is stopped for any emergency purpose or is disabled on the roadway or shoulder of any highway outside a business or residence district during the time when lighted lamps must be displayed, the driver shall promptly place an emergency warning triangle on the roadway on the traffic side of the vehicle ten feet from the vehicle in the direction of approaching traffic. A second emergency warning triangle shall be placed approximately 100 feet from the vehicle in the direction of approaching traffic. If the vehicle is stopped or disabled on any one-way roadway, the driver shall place an additional warning triangle approximately 200 feet from the vehicle in the direction of approaching traffic.

D. Maintenance.

1. All vehicles shall be maintained in accordance with the manufacturer's recommended maintenance schedule or an improved schedule based on actual vehicle operating conditions.

2. Providers shall correct any deficiency which might interfere with the safe operation of the vehicle before the vehicle is placed in service.

3. Windows and lights shall be kept clean.

4. Interior of vehicles shall be clean and in good repair.

14 MCAR § 1.7010 Insurance.

A. Each provider shall have in effect an insurance plan which provides the following minimum coverage for each vehicle:

1. Basic economic loss benefits as required by Minn. Stat. ch. 65B;

2. Residual liability coverage in the following minimum amounts:

a. private providers; $100,000 for bodily injury to, or death of any one person in a single accident, subject to a maximum of $300,000 for bodily injuries to, or the death of two or more persons in a single accident, and $50,000 for destruction of, or damage to property in a single accident, or if the policy is written on a single limit basis, $300,000 per occurrence;

b. municipalities; $100,000 for bodily injury to, or death of any one person in a single accident, subject to a maximum of $300,000 for bodily injury to, or death of two or more persons in a single accident, and $50,000 for destruction of, or damage to property in a single accident;

c. the state; $100,000 for bodily injury to, or death of any one person in a single accident, subject to a maximum of $500,000 for bodily injury to, or death of two or more persons in a single accident, and $100,000 for destruction of, or damage to property in a single accident;

3. uninsured motorist coverage as required by Minn. Stat. ch. 65B.

B. Each provider shall obtain a certificate of insurance for the special transportation service vehicles which it operates. The provider's insurer shall mail the certificate of insurance to the Minnesota Department of Transportation, Division of Public Transportation, Transportation Building, St. Paul, Minnesota 55155. The certificate shall show the vehicles covered by the policy and the policy limits. The insurer shall notify the department in writing ten days prior to the termination of coverage by either party.

C. A provider shall qualify as a self-insurer by providing evidence that it has complied with the requirements of Minn. Stat. § 65B.48, subd. 3.

14 MCAR § 1.7011 Records.

A. Each provider shall maintain files containing the following information:

1. For each driver, a driver's application form which contains the following information:

a. the name, address and birthdate of the driver;

b. the driver license number and the class of the license;

c. whether the driver has had at least one year of driving experience;

d. whether the driver's license has been revoked, suspended or cancelled within the three year period prior to this application;

e. the date on which the driver successfully completed at least four hours of training in first aid as required by 14 MCAR § 1.7009 A.5.;

f. the date on which the driver successfully completed training in the techniques of transporting and assisting elderly and physically handicapped passengers as required by 14 MCAR § 1.7009 A.6. or 7. whichever is applicable;

g. the date and location at which driver was trained in the use of the fire extinguisher;

2. For each driver, the physician's statement that the driver has no current medical condition which interferes with his or her ability to drive safely.

3. For each attendant, an attendant's application form which contains the following information:

a. the name and address of the attendant;

b. the date on which the attendant successfully completed at least four hours of training in first aid as required by 14 MCAR § 1.7009 A.5.;

c. the date on which the attendant successfully completed training in the techniques of transporting and assisting elderly and physically handicapped passengers as required by 14 MCAR § 1.7009 A.6. or 7. whichever is applicable;

d. the date and location at which the attendant was trained in the use of the fire extinguisher;

4. All correspondence with the commissioner, including the certificate of compliance;

5. All accident reports;

6. A record of all insurance claims arising from the operation of the vehicle;

7. Service records for each vehicle indicating the date, the odometer reading and the nature of the repair or replacement each time the vehicle was serviced;

8. The driver's logbook for each vehicle, unless the logbook is maintained in the vehicle.

B. The following documents shall be maintained in each vehicle:

1. A card showing the name of the insurance company which insures the vehicle and the telephone number of the insurance agent;

2. Accident report forms;

3. A card showing local emergency telephone numbers.

14 MCAR § 1.7012 Certification of training courses.

A. All training courses shall be approved by the commissioner prior to being offered to fulfill the requirements of these rules.

B. The application for approval of a training course shall be made on a form prescribed by the commissioner. A course shall be approved if it meets the following minimum standards:

1. It shall include instruction in the elements required by these standards;

2. The application shall specify when and where the instructor has previously taught the course;

3. The name, address, employment and relevant training of the instructor must be shown;

4. The name and address of any institution which is sponsoring the course must be shown.

KEY: RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike-outs~~ indicate deletions from proposed rule language. PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material."

C. Instructors.

1. A first aid course shall be taught by any person who is a licensed physician, registered nurse, licensed practical nurse, a paramedic, an emergency medical technician or a certified first aid instructor.

2. Passenger assistance technique training shall be taught by any person who is a licensed physician, registered nurse, registered physical therapist, registered occupational therapist, public health nurse or other health professional who has had work experience with physical disabilities, aging and communication disorders or by a team which includes one of those persons.

D. Applications for approval of training courses shall be granted or denied in writing by the commissioner within thirty days of receipt of the complete application.

14 MCAR § 1.7013 Variance.

A. The commissioner may grant a variance from any of these rules except 14 MCAR § 1.7004.

1. A variance shall be granted if the applicant shows that:

a. the rationale for the rule or rules in question can be met or exceeded by the specific alternative practice which the applicant proposes to substitute;

b. the application of the rule in question would impose an excessive burden on the applicant; and

c. the granting of the variance will not adversely affect the public health and safety.

2. The commissioner shall set forth in writing his reasons for granting or denying the variance.

3. Any special transportation service provider that is granted a variance shall comply with the alternative practice specified in its successful application for a variance.

4. Any special transportation service provider that has been granted a variance shall immediately notify the Department of Transportation if any material change occurs in the circumstances which justified granting the variance.

5. A variance shall be revoked if a material change occurs in the circumstances which justified granting the variance, or if the applicant fails to comply with the alternative practice specified in the application for a variance.

14 MCAR §§ 1.7014 to 1.7050 Reserved for future use.

ADOPTED RULES

The adoption of a rule becomes effective after the requirements of Minn. Stat. § 15.0412, subd. 4, have been met and five working days after the rule is published in the *State Register*, unless a later date is required by statutes or specified in the rule.

If an adopted rule is identical to its proposed form as previously published, a notice of adoption and a citation to its previous *State Register* publication will be printed.

If an adopted rule differs from its proposed form, language which has been deleted will be printed with strike outs and new language will be underlined, and the rule's previous *State Register* publication will be cited.

A temporary rule becomes effective upon the approval of the Attorney General as specified in Minn. Stat. § 15.0412, subd. 5. Notice of his decision will be published as soon as practicable, and the adopted temporary rule will be published in the manner provided for adopted rules under subd. 4.

Department of Agriculture
Plant Industry Division

Adopted Rules Governing Disposal of Refuse from Transport Involved in Foreign Commerce (3 MCAR §§ 1.0190-1.0192)

The rules proposed and published at *State Register*, Volume 4, Number 28, pp. 1125-1128, January 14, 1980 (4 S.R. 1125) are now adopted, with the following amendments:

Amendments as Adopted

3 MCAR § 1.0190 General.

B. Definitions. For purposes of these rules, the following definitions and those in Minn. Stat. § 18.46 shall apply:

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
ROOM 300 - 1745 UNIVERSITY AVENUE
ST. PAUL, MINNESOTA 55104
(612) 296-6910

March 12, 1981

Commissioner Richard P. Braun
Department of Transportation
411 Transportation Building
St. Paul, Minnesota 55155

Re: Rules Relating to Operating Standards for Special Transportation Service; DOT-81-007-GB.

Dear Commissioner Braun:

Enclosed is the Order of the Chief Hearing Examiner on the above-referenced rules. Also enclosed and returned to you are the record of the hearing, the transcript and a copy of the proposed final rules. We have retained one copy of the proposed final rules for our file.

Yours very truly,

DUANE R. HARVES
Chief Hearing Examiner

Telephone: 612/296-8100

DRH:sh
Encs.

AN EQUAL OPPORTUNITY EMPLOYER

DOT-81-007-GB

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE DEPARTMENT OF TRANSPORTATION

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE DEPARTMENT OF TRANSPORTATION RELATING TO OPERATING STANDARDS FOR SPECIAL TRANSPORTATION SERVICE.

ORDER OF THE CHIEF HEARING EXAMINER

WHEREAS, a hearing was held on December 2, 1980 before George A. Beck, a Hearing Examiner of the State Office of Administrative Hearings, on the above-entitled matter in compliance with Minn. Stat. § 15.0412, subd. 4; and

WHEREAS, the Report of Hearing Examiner made pursuant to Minn. Stat. § 15.052, subd. 3, was issued to the Department of Transportation and;

WHEREAS, the Department of Transportation has now determined to adopt rules pursuant to Minn. Stat. § 15.0412, subd. 4-4f; and

WHEREAS, the Department of Transportation has submitted said rules to the Chief Hearing Examiner for review pursuant to Minn. Stat. §§ 15.0412, subd. 4e and 15.052, subd. 4, and 9 MCAR § 2.111; and

WHEREAS, the Chief Hearing Examiner finds that the final proposed rules are not substantially different from those proposed at the public hearing.

NOW, THEREFORE, upon receipt of this Order, the Department of Transportation has the responsibility of submitting the complete hearing record and the rules as adopted by the Department of Transportation to the Attorney General and to publish in the State Register, all pursuant to Minn. Stat. § 15.0412, subd. 4e and 4f.

Dated: March 12, 1981.

Duane R. Harves

DUANE R. HARVES
Chief Hearing Examiner

ADMIN 1000 (Rev. 1/78)

STATE OF MINNESOTA

DEPARTMENT ADMINISTRATIVE HEARINGS

Office Memorandum

TO : COMMISSIONER RICHARD P. BRAUN
Department of Transportation

Attention: Robert J. McDonald

DATE: August 26, 1980

27 AUG 1980

FROM : DUANE R. HARVES
Chief Hearing Examiner

PHONE: 6-8100

SUBJECT: INCORPORATION BY REFERENCE - RULES RELATING TO OPERATING STANDARDS FOR SPECIAL TRANSPORTATION SERVICE

In accordance with your letter of August 12, 1980, enclosed is the original of the Order of the Chief Hearing Examiner approving the incorporation by reference of certain materials in the above-entitled rules.

DRH:sh
cc: Betsy Parker
Ken Bjork

RECEIVED
OCT 31 1980
OFFICE OF HEARING EXAMINERS

DOT Exh. No. 9
File No. DOT-81-007-617
Date 12/2/80

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE MINNESOTA DEPARTMENT OF TRANSPORTATION

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE DEPARTMENT OF TRANSPORTATION RELATING TO OPERATING STANDARDS FOR SPECIAL TRANSPORTATION SERVICE

ORDER OF THE CHIEF HEARING EXAMINER

WHEREAS, on August 12, 1980, the Minnesota Department of Transportation (hereinafter "Mn/DOT") submitted a request to the Chief Hearing Examiner for approval of the incorporation by reference of material in rules to be proposed; and

WHEREAS, pursuant to Minnesota Statutes 1978, § 15.0412, subd. 4, agencies may incorporate by reference provisions of federal law or rule or other materials from sources which the Chief Hearing Examiner determines are conveniently available for viewing, copying and acquisition by interested persons; and

WHEREAS, the Chief Hearing Examiner has reviewed the Federal Motor Vehicle Safety Standard (FMVSS) No. 213, codified at 49 C.F.R. § 571.213 (1979), as amended at 44 Fed. Reg. 72147 and 45 Fed. Reg. 29047, and has found it to be in excess of 3,000 words and has determined that it would exceed five pages of publication in the State Register; and

WHEREAS, MnDOT has indicated, and the Chief Hearing Examiner thus finds, that the material is conveniently available for viewing, copying and acquisition by interested persons.

NOW, THEREFORE, IT IS ORDERED, that MnDOT shall have the approval of the Chief Hearing Examiner to incorporate by reference in their proposed rules the above-referenced material.

Dated this 26th day of August, 1980.

DUANE R. HARVES
Chief Hearing Examiner

In the Matter of the Proposed Adoption of Rules of the Department of Transportation Relating to Operating Standards for Special Transportation Service.

AFFIDAVIT OF MAILING NOTICE OF SUBMISSION TO THE ATTORNEY GENERAL

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Kenneth H. Bjork, being first duly sworn, deposes and says:

That on the 25th day of March, 1981, in the City of St. Paul, County of Ramsey, State of Minnesota, he served the attached Notice of Submission to the Attorney General by depositing in the State of Minnesota Central Mail System for United States mailing at said City of St. Paul, a copy thereof, properly enveloped, with postage prepaid, on all persons and associations who requested notice that the rules in the above-entitled matter have been submitted to the Attorney General.

Kenneth H. Bjork
Authorized Signature

Subscribed and sworn to before me
this 25th day of March, 1981.

Colette E. Prokop
Notary Public
Ramsey County, Minnesota.

My Commission expires 9-13-86.

COLETTE E. PROKOP
NOTARY PUBLIC—MINNESOTA
RAMSEY COUNTY
My Comm. Expires Sep. 13, 1986

STATE OF MINNESOTA

DEPARTMENT OF TRANSPORTATION

In the Matter of the Proposed Adoption of Rules of the Department of Transportation Relating to Operating Standards for Special Transportation Service.	NOTICE OF SUBMISSION TO THE ATTORNEY GENERAL

- -

Pursuant to your request and in accordance with Minnesota Statutes, section 15.0412:

PLEASE TAKE NOTICE that the above-captioned rules have been submitted to the Office of the Attorney General on this date, March 25, 1981, for review as to form and legality. Pursuant to 1 MCAR § 1.206 B., the Attorney General will not approve the rules for at least twenty calendar days after receipt to allow any person or association time to comment on the legality of the rules, after which that Office will complete its review. If you desire to comment on the legality of the above-captioned rules, you should direct your comments to the Office of the Attorney General, G-25 State Administration Building, 50 Sherburne Avenue, Saint Paul, Minnesota 55155, telephone (612) 296-7030. Please note that the above-cited rule of the Attorney General also provides that a copy of any written comments submitted to the Attorney General must be submitted simultaneously to this agency.

If you are interested in determining what changes, if any, were made in the proposed rules after the hearing and before submission to the Attorney General, you may contact Allan Schenkelberg, Modal Planning Director, Planning Division, Department of Transportation, Transportation Building, Saint Paul, Minnesota 55155, telephone (612) 296-1615 during normal business hours.

Richard P. Braun
Commissioner of Transportation